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STATE OF CALIFORNIA  
DEPARTMENT OF ENGINEERING

BULLETIN No. 6

# California Irrigation District Laws

AS AMENDED

1919

Division of  
Irrigation Engineering  
and Planning

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## INTRODUCTION.

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The past decade has seen a marked increase in the organization of irrigation districts in California. This has naturally been accompanied by, and in fact has also largely resulted from, fundamental improvements in the Wright Irrigation District Act as revised and re-enacted in 1897 and now by law designated the "California Irrigation District Act."

The original Wright Act was plainly defective, among other particulars, in not providing for sufficient state supervision to prevent the organization of wholly speculative districts and districts for other reasons not justified or feasible; also in failing to give the state any control of irrigation district finances. During the eight years 1887 to 1895, immediately following the original enactment, each succeeding legislature passed amendments of more or less importance, but these did not correct the fundamental objections, either as to organization or financing. More important changes were made when the law was re-enacted in 1897 under the legislative leadership of Judge E. A. Bridgford. The essential purport of the law was not, however, altered by this re-enactment and the new act was in many of its provisions but a slight verbal revision of the old one. Radical changes, however, were made in the procedure for organization and for incurring indebtedness. These changes were planned virtually to stop new development under the law and for more than ten years that was their effect. The legislature that substituted the amended law also passed a funding act under which districts were permitted to discharge their indebtedness with new bonds. For the next four years the law was left unaltered, but beginning in 1901, and more particularly at each legislature from 1909 to 1919, amendments and supplementary acts have been adopted that have greatly changed and strengthened it. The more essential changes have been as follows: (1) Requiring petitions for the formation of irrigation districts to be referred by the board of supervisors of counties to the state engineer for report, and giving the state engineer ninety days in which to "report, make or cause to be made such preliminary investigations as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken"; (2) creating an irrigation district bond commission, composed of the state engineer, state superintendent of banks, and the attorney general of the state, which, prior to bond elections, must pass on proposed bond issues, and which may validate bonds that have been voted, in whole or in part, so as to make them legal investments for funds of banks, insurance and trust companies, trusts and state school funds, and so as to permit them to be used as security for the performance of any act the same as bonds of cities, counties, school districts or municipalities; (3) permitting the organization of districts to be proposed by 500 petitioners, each petitioner to the number of at least 500 to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; (4) reducing the number of votes necessary to carry the organization of an irrigation district from two-thirds to a majority of all votes cast;\* and (5) permitting boards of directors of districts to

---

\*This amendment, passed in 1919, is subject to referendum vote at the next general election succeeding the legislature of 1919.

call bond elections to cover expenditures, approved by the irrigation district bond commission, without petition of the landowners, as necessary from 1897 to 1919, but requiring a two-thirds instead of a majority vote to carry such elections.\*

#### IRRIGATION DISTRICTS AS OF DECEMBER 1, 1919.

The irrigation districts legally in existence December 1, 1919, are listed below. This list does not include several of the original Wright Act districts organized prior to 1895 which for one reason or another have never been formally dissolved, but which have never been active. The list, however, does include six districts approved by the state engineer and organized in 1919 but not yet fully operating; three organized in 1919 but not reported on by the state engineer; and twelve organized after 1913 and prior to 1919 for which no satisfactory plans for construction or operation have yet been made and which have issued no bonds. Of the 52 listed, something over 32 may be properly considered as operating. Some of the 32 have merely taken over more or less complete water systems built by former mutual or public utility companies and may or may not be in full working order; others have completed most of their construction and are thoroughly established. Examples of the former are such districts as Beaumont and Fair Oaks; examples of the latter are Modesto, Turlock and Alta.

Irrigation Districts as of December 1, 1919.

Name of district	County	Year organized	Area (acres)	Bonds voted	Address of secretary
Alpaugh	Tulare	1914	7,576	\$280,000	Alpaugh
Alta	Tulare-Fresno	1888	130,000	543,000	Dinuba
Anderson-Cottonwood	Shasta	1914	32,500	1,055,000	Anderson
Baxter Creek	Lassen	1916	11,000		Lassen
Beaumont	Riverside	1919	961		Beaumont
Big Rock Creek <sup>1</sup>	Los Angeles	1890	30,000	253,000	Yermo
Blackrock	Inyo	1915	1,210		Big Pine
Browns Valley <sup>2</sup>	Yuba	1888	44,323	140,000	Browns Valley
Cardiff	San Diego	1916	700		Cardiff by the Sea
Carmichael	Sacramento	1915	3,113	90,600	R. F. D., Sacramento
Coreoran <sup>3</sup>	Kings	1919	48,669		Coreoran
Cordua	Yuba	1919	5,422		Marysville
Crooks Canyon <sup>4</sup>	Modoc	1919			Alturas
Fair Oaks	Sacramento	1917	4,000	200,000	Fair Oaks
Happy Valley <sup>5</sup>	Tehama	1891	18,800	615,000	Olinda
Honcut-Yuba	Butte	1919	26,500		Honcut
Honey Lake Valley	Lassen	1916	33,150		Amadee
Hot Spring Valley <sup>6</sup>	Modoc	1919	5,500		Alturas
Imperial	Imperial	1911	576,600	6,000,000	El Centro
Jacinto	Glenn	1918	19,660		Jacinto
La Mesa, Lemon Grove and Spring Valley <sup>7</sup>	San Diego	1913	14,794	1,232,500	La Mesa
Lindsay-Strathmore	Tulare	1915	15,775	1,400,000	Lindsay
Little Rock Creek	Los Angeles	1892	3,000	60,000	Little Rock
Long Valley Creek	Lassen	1916	31,000		Doyle

<sup>1</sup>Big Rock Creek district was dormant for many years; revived in 1914.

<sup>2</sup>Browns Valley district paid off its bonds at 30 cents on the dollar.

<sup>3</sup>Bond issue pending; Coreoran district has applied for permission to issue \$760,000 of bonds.

<sup>4</sup>Crooks Canyon district formed without report by state engineer; no data on hand.

<sup>5</sup>Happy Valley district revived in 1917. Only \$250,000 of its bonds, required for present needs, have been validated.

<sup>6</sup>Acres estimated.

<sup>7</sup>This district's bonds have never been validated.

\*Bulletin No. 2, of the State Department of Engineering, contains a full discussion of California irrigation districts from 1887 to 1916.

## Irrigation Districts as of December 1, 1919—Continued.

Name of district	County	Year organized	Area (acres)	Bonds voted	Address of secretary
Maxwell -----	Colusa -----	1918	8,000	270,000	Colusa
Merced -----	Merced -----	1919	173,000+	-----	Merced
Modesto -----	Stanislaus -----	1887	81,183	2,215,021	Modesto
Mojave River -----	San Bernardino -----	1917	27,665	-----	Victorville
Newport Heights -----	Riverside -----	1918	1,503	-----	Santa Ana
Newport Mesa -----	Riverside -----	1918	670	-----	Santa Ana
Oakdale -----	Stanislaus-San Joaquin -----	1909	74,146	2,399,500	Oakdale
Oroville-Wyandotte <sup>8</sup> -----	Butte -----	1919	25,000	-----	Oroville
Palmdale -----	Los Angeles -----	1918	4,000	-----	Palmdale
Paradise -----	Butte -----	1916	11,200	400,000	Paradise
Princeton-Codora-Glenn -----	Glenn-Colusa -----	1917	18,200	-----	Willows
Provident -----	Colusa-Glenn -----	1918	20,756	-----	Willows
Redrock Creek -----	Lassen -----	1918	3,700	-----	Ravendale
San Ysidro -----	San Diego -----	1911	485	25,000	San Ysidro
Scott Valley <sup>9</sup> -----	Siskiyou -----	1917	5,540	125,000	Fort Scott
Southern Lassen -----	Lassen -----	1915	21,500	-----	Doyle
South San Joaquin -----	San Joaquin -----	1909	71,050	3,835,000	Manteca
Stratford -----	Kings -----	1915	9,200	-----	Stratford
Surprise Valley -----	Modoc -----	1918	17,500	-----	Fort Bidwell
Terra Bella -----	Tulare -----	1915	12,000	1,000,000	Terra Bella
Tranquillity -----	Fresno -----	1917	11,300	-----	Tranquillity
Tulare <sup>10</sup> -----	Tulare -----	1889	89,330	500,000	Tulare
Turlock -----	Stanislaus-Merced -----	1887	175,566	2,572,800	Turlock
Victor Valley -----	San Bernardino -----	1917	71,517	-----	-----
Walnut <sup>11</sup> -----	Los Angeles -----	1893	869 $\frac{1}{2}$	-----	Riviera
Waterford -----	Stanislaus -----	1914	14,434	465,000	Waterford
Webster -----	Madera -----	1915	15,000	-----	Madera
Westside -----	San Joaquin -----	1915	11,700	410,000	Traey
Total acreage <sup>12</sup> -----	-----	-----	1,992,794	-----	-----
Total bonded indebtedness <sup>13</sup> -----	-----	-----	-----	\$26,175,821	-----

<sup>8</sup> Acreage estimated.<sup>9</sup> Bond issue of \$125,000 approved by state engineer; Scott Valley district had asked for only \$83,000.<sup>10</sup> Tulare district bought up its bonds at 53 cents and burned them in 1903.<sup>11</sup> Walnut district never issued bonds; all expenses have been met by tolls and assessments.<sup>12</sup> Plus unknown acreage in Crooks Canyon district.<sup>13</sup> Less \$610,000, Browns Valley and Tulare districts' bonds paid and canceled; also less some bonds paid by Alta, Modesto and Turlock districts.

## ADDITIONAL LAWS.

In 1913, three additional laws relating to irrigation and water districts were passed by the legislature (Stats. 1913, chapters 370, 387, 592). The only one of these acts under which anything has been accomplished is chapter 370, Stats. 1913, amended in 1915, now known as the "County Water Works Act." Under this act Los Angeles County Water Works Districts Nos. 2 and 3 have been formed in San Fernando Valley to make use of Los Angeles aqueduct water. In 1915 the "Carey Act Commission Act" was passed, this generally being intended to supersede chapter 387, Stats. 1913, but there has been no action under it. In 1915 the "California Irrigation Act" was passed, permitting the organization of conservation districts and a new type of irrigation district. While proposed in the interest of intended development in Sacramento Valley, this law was revised in 1917, and further revised and re-enacted in 1919, at the instance chiefly of those interested in the formation of a conservation district on Kings River. This law creates a state irrigation board. No conservation district and only one irrigation district has been formed under this act, but a number of the latter are now pending.



# OUTLINE OF PROCEDURE FOR THE FORMATION OF A WRIGHT IRRIGATION DISTRICT.

The following brief outline of the procedure to be followed in the formation of an irrigation district under the California Irrigation District Act, while not intended for lawyers, may be of interest to communities contemplating this type of organization.

(1) Determination of the general practicability of the proposed project. Advice may be obtained from the State Department of Engineering, the College of Agriculture of the University of California, the State Water Commission, and federal agencies interested in irrigation in California.

(2) Determination of boundaries of proposed district and of proposed source of water supply.

(3) Circulation of petition among property owners within proposed district. Petitions must contain the names of a majority of the holders of title to lands within the proposed district representing a majority in value of said land; or they may contain the names of 500 electors or landowners within the proposed district. This petition should be drawn up and circulated under competent legal advice. (Sec. 2.)

(4) Advertise proposal to present petition for two weeks in some newspaper of general circulation in the county or counties in which the proposed district is situated. (Sec. 2.)

(5) Present petition to board of supervisors at date specified in advertised notice and forward copy of petition to state engineer. (Sec. 2.)

(6) Hearing on sufficiency of petition by county board of supervisors (Sec. 2) and if found sufficient, forwarding of copy of the determination of the board of supervisors to the state engineer for report. (Sec. 2.)

(7) After receiving the report of the state engineer, and if the proposed district is approved, final hearing on the matter by the board of supervisors and calling of election on organization, notice of such election to be published for at least three weeks prior thereto, and officers of the district to be voted on along with the matter of organization. (Secs. 6 to 8.)

(8) Board of supervisors to canvass votes cast at the election, and if carried, to declare district duly organized. (Sec. 9.)

(9) Organization of the board of directors and employment of an engineer to prepare plans for the district; determination by board of directors of the amount of bonds necessary; reference of plans and specifications to the irrigation district bond commission. (Secs. 13, 30, and 30a.)

(10) Report by the irrigation district bond commission and, if favorable, the calling of a bond election by the board of directors. (Sec. 30a.)

(11) Reference of bond issue to irrigation district bond commission for validation. (Special act Stats. 1913, p. 778; Stats. 1915, p. 692; Stats. 1917, p. 582; Stats. 1919, p. 1207.)

With these and other related steps fully set forth in the act, the district is ready to purchase or construct irrigation works and otherwise carry out proposals for which it has been formed.

## CONSTITUTIONAL PROVISIONS RELATING TO WATER AND IRRIGATION DISTRICTS.

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### TAKING IMMEDIATE POSSESSION IN EMINENT DOMAIN PROCEEDINGS.

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#### ARTICLE I.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation, except a municipal corporation or a county, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; *provided*, that in an action in eminent domain brought by the state, or a county, or a municipal corporation, or a drainage, irrigation, levee, or reclamation district, the aforesaid state or political subdivision thereof, or district may take immediate possession and use of any right of way required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposits as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier. (Amendment adopted November 5, 1918.)

### ACQUIRING STOCK IN FOREIGN CORPORATION.

#### ARTICLE IV.

SEC. 31. \* \* \* ; *provided, further*, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in

the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country. (Amendment adopted November 3, 1914.)

### LEGISLATIVE POWER TO PROVIDE FOR SUPERVISION OF DISTRICTS.

#### ARTICLE XI.

SEC. 13. The legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this state. (Amendment adopted November 3, 1914.)

### PAYMENT OF BONDS.

#### ARTICLE XI.

SEC. 13½. Any county, city and county, city, town, municipality, irrigation district, or other public corporation, issuing bonds under the laws of the state, is hereby authorized and empowered to make said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds. (Amendment adopted November 3, 1914.)

### BONDS EXEMPT FROM TAXATION.

#### ARTICLE XIII.

SEC. 1¾. All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said state, shall be free and exempt from taxation. (New section adopted November 4, 1902.)

### WATER AND WATER RIGHTS.

#### ARTICLE XIV.

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the state, in the manner to be prescribed by law; *provided*, that the rates or compensation to be collected by any person, company, or corporation in this state for the use of water supplied to any city and county, or city, or town, or the inhabitants thereof, shall be fixed, annually, by the board of supervisors, or city and county, or city, or town council, or



other governing body of such city and county, or city, or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process to compel action, at the suit of any party interested, and shall be liable to such further processes and penalties as the legislature may prescribe. Any person, company, or corporation collecting water rates in any city and county, or city, or town in this state otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation to the city and county, or city, or town, where the same are collected, for the public use.

## I. CALIFORNIA IRRIGATION DISTRICT ACT.<sup>1</sup>

*An act to provide for the organization and government of irrigation districts, and to provide for the acquisition and construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.*

(Approved March 31, 1897, Stats. 1897, p. 254; amended Stats. 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075; 1911, pp. 509, 1111; 1911 (extra session), pp. 135, 139, 248; 1913, pp. 59, 781, 993; 1915, pp. 836, 1291, 1326, 1367; 1917, pp. 751, 915; 1919, pp. 472, 660, 714.)

### ORGANIZATION.

Who may propose the organization of an irrigation district.

SECTION 1. A majority in number of the holders of title, or evidences of title, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any law of the United States or of this state, to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title, or evidence of title and of possessory rights, representing a majority in value of said lands, according to the equalized county assessment roll or rolls for the year last preceding, may propose the organization of an irrigation district, under the provisions of this act; or the organization of an irrigation district of land susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, under the provisions of this act, may be proposed by written petition signed by not less than five hundred petitioners, each petitioner to be an adult person residing in the proposed district, or to be some person, corporation, association or partnership, the holder of title to lands in said proposed irrigation district, or evidence of title to land in said proposed irrigation district, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any law of the United States or of this state, the said petitioners signing said petition shall include the owners of not less than twenty per cent in value of the land within said proposed irrigation district according to the equalized county assessment roll or rolls for the year last preceding. Such lands proposed to be organized into an irrigation district need not consist of contiguous parcels.

Said equalized assessment roll or rolls shall be sufficient evidence of title and of such possessory rights, for the purposes of this act, except that where property is assessed to unknown owners or the assessment roll does not purport to give the true name or gives the names of a portion only of the owners of any parcel, the actual owners of said property shall be considered the owners for all the purposes of this act, and owners of undivided interests may sign for such interest and

<sup>1</sup>NOTE.—Because the present act continues the principles of the original Wright Act of 1887, it is still popularly known as the "Wright Act." The Wright Act of 1887 was repealed, however, in 1897, upon the passage of the present act.

Most of the annotations on this act were prepared by Mr. Francis Carr. The notes under section two were largely contributed by Mr. L. L. Dennett.

each such owner shall be considered as one assessment payer; and *provided, further*, that guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioner and any fact going to the qualifications of petitioners under this act. (Stats. 1917, p. 751.)

NOTE.—The above section is now in force. The following section was substituted by the Legislature in 1919, but is delayed from going into effect by referendum, and will be voted on by the people at the general election in November, 1920, or at any special election which may be called by the Governor, in his discretion, prior to such regular election.

SECTION 1. (*Withheld by referendum*.) A majority in number of the holders of title or evidence of title to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title or evidence of title representing a majority in value of said lands, may propose the organization of an irrigation district, under the provisions of this act; or the organization of such an irrigation district may be proposed by not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; *provided*, that the said petitioners must include the holders of title or evidence of title to not less than twenty per cent in value of the lands included within the proposed district. The lands proposed to be included within any such irrigation district need not consist of contiguous parcels. Any holder of land under a possessory right acquired by entry or purchase from the United States or the State of California shall be deemed to be a holder of evidence of title to said land within the meaning of this act. The county assessment roll of the county in which any lands included within such proposed irrigation district are situated, which assessment roll has been last equalized at the time of the first publication of said petition as provided in section two of this act, shall be conclusive evidence as to the value of said lands and the holders of title or evidence of title to said lands. If any parcel of land is assessed on any assessment roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, said parcel of land shall be deemed, for any of the purposes of this act, to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interest in any land are not specifically defined shall be deemed to have equal shares therein. Guardians, executors, administrators or other persons holding property in a trust capacity under



appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioners under this act. (Stats. 1919, p. 714.)

**Organization:**

Assessment roll as evidence of title.

*Matter of Bonds of South San Joaquin Irr. Dist.*, 161 Cal. 345.

Legislature may authorize initiatory proposal to be made by such persons as it sees fit.

*Imperial Water Co. vs. Supervisors*, 162 Cal. 14-25.

**Holders of title or evidence of title:**

*Board of Directors vs. Abila*, 106 Cal. 355;

*Carson vs. Cudworth* (Colo.), 140 Pac. 935;

*In re Gallatin Irr. Dist.* (Mont.), 140 Pac. 92-4;

*Gem Irr. Dist. vs. Johnson* (Idaho), 109 Pac. 845.

Inclusion of public land will not invalidate organization.

*Cullen vs. Glendora W. Co.*, 113 Cal. 521;

*Stevens vs. Melville* (Utah), 175 Pac. 602;

*Nevada Bank vs. Poso Dist.*, 140 Cal. 344.

**Petition to organize district.**

SEC. 2. In order to propose the organization of an irrigation district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, including such aforesaid possessory rights to lands within such proposed district, and representing the requisite majority in value of said land, or a petition shall be presented to said board of supervisors signed by not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector in the proposed district, or to be some person, corporation, association or partnership, the holder of title to lands in said proposed irrigation district, or evidence of title to lands in said proposed irrigation district, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any laws of the United States or of this state, the said petitioners signing said petition shall include the owners of not less than twenty per cent in value of the land within said proposed irrigation district according to the equalized county assessment roll or rolls for the year last preceding, which petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at

a regular meeting of said board and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the state engineer. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures thereto, shall vitiate any proceedings thereon; *provided*, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth, it shall cause a copy of the resolution so declaring to be forwarded to the state engineer and shall postpone further hearing of said petition until a report shall be received from the state engineer. Upon receiving a copy of said resolution, the state engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, and such board of supervisors at their next regular meeting following the receipt of said report shall set a time for the consideration of said report; *provided*, that such time shall not be less than one week from such regular meeting of said board of supervisors; *and provided, further*, that notice of such time shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof, are situated. A failure to give such last mentioned notice, however, shall not affect the validity of subsequent proceedings. If the state engineer shall report that the supply of water available for the use of the proposed



district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reasons or reason and if such report shall be filed with the said board of supervisors before the expiration of ninety days from and after the date of the adoption of the aforesaid resolution, the hearing of the petition shall again be continued for not more than two months and shall then be dismissed, unless the board of supervisors shall be petitioned in writing by three-fourths in number of the holders of title or evidence of title including possessory rights, to land within said proposed district to grant the same; *provided*, that if such petition is not received the board of supervisors may modify the plans for the proposed district in accordance with recommendations by the state engineer. If the report of the state engineer shall not compel the continuance of the matter as aforesaid, or if no report is received or if the state engineer makes a written statement that he has been unable to make such report, or if no report is made at the first regular meeting after the expiration of said ninety days, the board of supervisors shall, at the meeting at which said report shall have been set for hearing, proceed to a final hearing of the petition. If said board shall, after receiving an adverse report from the state engineer, as aforesaid, decide to modify the plan as set forth in said petition or shall be requested in writing by three-fourths in number of the holders of title or evidence of title, including possessory rights, to the lands within said proposed district to grant said petition, said board shall then proceed at the time set to a final hearing of the matter. On a final hearing herein provided for, the board may adjourn from day to day, but not for a longer time, until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of any said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. (Stats. 1917, p. 752.)

NOTE.—The above section is now in force. The following section was substituted by the Legislature in 1919, but is delayed from going into effect by referendum, and will be voted on by the people at the general election in November, 1920, or at any special election which may be called by the Governor, in his discretion, prior to such regular election.

SEC. 2. (*Withheld by referendum.*) In order to propose the organization of an irrigation district, a petition signed by the requisite majority of holders of title or evidence of title to lands within the proposed district or by at least five hundred petitioners, as provided in



section one of this act, shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated. Said petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the state engineer. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required, by filing a declaration, signed by the petitioner, with the board of supervisors before which the petition is to be presented, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, and no lack of signatures thereto, or to the petition as published, shall vitiate any proceedings thereon; *provided*, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the

requirements hereinbefore set forth, it shall cause a copy of the resolution so declaring to be forwarded to the state engineer. Upon receiving a copy of said resolution, the state engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days from the date of the adoption of the said resolution, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, except that upon receiving a written request from the state engineer, the board of supervisors may at any meeting before the expiration of said ninety days grant to the state engineer not more than ninety days additional time in which to make said report. If the state engineer shall report within the time specified herein that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reason or reasons, the hearing of the matter shall be continued for not more than two months and shall then be dismissed unless the board of supervisors shall be petitioned in writing by three-fourths of the holders of title or evidence of title to land within said proposed district to grant said petition; *provided*, that if the board of supervisors is not so petitioned, it may modify the plans for the proposed district in accordance with recommendations by the state engineer. If after receiving an adverse report from the state engineer the board of supervisors shall be petitioned as aforesaid or shall decide to modify the plans for the proposed district in accordance with recommendations by the state engineer, it shall, at the time to which the hearing of said matter shall have been continued, set a time for the final hearing thereof. If the continuance of the matter is not compelled by an adverse report as aforesaid, the board of supervisors, at its first regular meeting after the receipt of a report from the state engineer, or at the first regular meeting after the expiration of the time allowed for the making of such report if no such report has been received, shall set a time for a final hearing of the matter. In any case the time set for the final hearing as aforesaid shall not be less than one week from the meeting at which said time was set; *provided*, that notice of the time of such final hearing shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners, or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof are situated. A failure to give such last mentioned notice, however, shall not affect the validity of subsequent proceedings. On a final hearing herein provided for, the board may adjourn from time to time, but at no time for a longer period than three days until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by

irrigation by means of said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should, in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. (Stats. 1919, p. 715.)

#### Petition:

The form or contents of the petition is not important, provided that it contains the required recitals showing the boundaries; the proposed sources of supply; that it is the purpose of the petitioners to organize an irrigation district; and praying that the same be organized thereunder.

*Ells vs. Board of Supervisors* (Cal. App.), 176 Pac. 709;

*William Hanley Co. vs. Harney Valley Irrig. Dist.* (Ore.), 180 Pac. 725.

#### Petition, signatures, and bond for cost of organization:

*Board of Directors vs. Abila*, 106 Cal. 355;

*Fogg vs. Perris Irr. Dist.*, 154 Cal. 209;

*Central Irr. Dist. vs. DeLappe*, 79 Cal. 351;

*In re Madera Irr. Dist.*, 92 Cal. 296;

*McAulay vs. Board of Supervisors*, 56 Cal. Dec. 116, 171 Pac. 30;

*Black Canyon Dist. vs. Marple* (Idaho), 112 Pac. 766.

Owners of possessory rights are eligible as petitioners.

*Imperial Water Co. vs. Supervisors*, 162 Cal. 25.

It appears to be proper for the board of supervisors to appoint some one as referee to compare the petitions and assessment roll.

*Imperial Water Co. vs. Supervisors*, 162 Cal. 24.

The best evidence, however, is required.

*Wilder vs. Board, etc.* (Colo.), 135 Pac. 461;

*Ahern vs. Board of Directors* (Colo.), 89 Pac. 964.

The presentation to the board of a bond is jurisdictional, and where although the bond was informal it was a binding obligation upon those who signed it, the proceedings are not rendered illegal. The supervisors may permit a new bond to be filed.

*In re Madera Irr. Dist.*, 92 Cal. 329;

*Central Irr. Dist. vs. DeLappe*, 79 Cal. 357.

#### Description of boundaries:

A description by metes and bounds sufficient for an ordinary conveyance will suffice. The petition is sufficient so long as the boundaries can be definitely located.

*Central Irr. Dist. vs. DeLappe*, 79 Cal. 351;

*In re Madera Irr. Dist.*, 92 Cal. 296;

*Cullen vs. Glendora Water Co.*, 113 Cal. 503;

*Board of Directors vs. Kimball* (Wash.), 157 Pac. 38.

#### Notice, publication, etc.:

*In re Central Irr. Dist.*, 117 Cal. 382;

*Fogg vs. Perris Irr. Dist.*, 154 Cal. 209;

*Imperial Water Co. vs. Supervisors*, 162 Cal. 11;

*Tularc Dist. vs. Shepard*, 185 U. S. 1, 46 L. Ed. 773;

*Ells vs. Board of Supervisors* (Cal. App.), 176 Pac. 709;

*Wm. Hanley Co. vs. Harney Valley Irr. Dist.* (Ore.), 180 Pac. 721.

The time set for the hearing must be at a regular meeting of the board of supervisors, but it is not necessary that the notice specify that fact.

*Imperial Water Co. vs. Supervisors*, 162 Cal. 23.

The notice need not be separately signed and may precede the petition, with the signatures attached to the petition.

*Fogg vs. Perris Dist.*, 154 Cal. 203;

*Ells vs. Board of Supervisors* (Cal. App.), 176 Pac. 709.

The date of the petition and notice should not vary.

*Ahern vs. Board of Directors* (Colo.), 89 Pac. 964.

#### Hearing:

At the hearing, the assessment roll is sufficient evidence of ownership.

*Matter of Bonds of South San Joaquin Irr. Dist.*, 161 Cal. 345.



**Right to withdraw from petition:**

A petitioner may withdraw his name from the petition at any time prior to its presentation to the board of supervisors on the day fixed therefor; but see amendment of 1919 suspended by referendum.

*McAulay vs. Board of Supervisors*, 56 Cal. Dec. 116, 174 Pac. 30.

**Inclusion and exclusion of lands:**

While it appears that the action of the board can not be arbitrary (*Ahern vs. Board of Directors*, 89 Pac. 964), yet in the absence of fraud the action of the board of supervisors can not be attacked.

*Cullen vs. Glendora Water Co.*, 113 Cal. 503;

*Fallbrook Irr. Dist. vs. Bradley*, 164 U. S. 112.

The application for inclusion or exclusion need not be in writing.

*Central Irr. Dist. vs. DeLappe*, 79 Cal. 351.

**Character of land that may be included:**

As to the land that may be included within a district, the jurisdiction of the board seems to be very broad. It is proper to include cities and any land that in its natural state would be benefited by irrigation.

*La Mesa Homes Co. vs. La Mesa Irr. Dist.*, 173 Cal. 121;

*Tregea vs. Modesto Irr. Dist.*, 164 U. S. 179.

On the inclusion of city or town lots, *see also*

*Board of Directors vs. Tregea*, 88 Cal. 334;

*In re Madera Irr. Dist.*, 92 Cal. 296;

*Board of Directors vs. Abila*, 106 Cal. 355;

*In re Central Irr. Dist.*, 117 Cal. 382;

*Imperial Water Co. vs. Supervisors*, 162 Cal. 14;

*Nampa Irr. Dist. vs. Brose* (Idaho), 83 Pac. 499.

It appears that rights of way of railroads may likewise be included.

*Oregon Short Line, etc. vs. Pioneer Dist.* (Idaho), 102 Pac. 905.

But there also appears to be no machinery by which such rights of way may be compelled to pay assessments.

*Atchison T. & S. F. Ry. Co. vs. Reclamation Dist. No. 404*, 173 Cal. 91.

**Fixing of boundaries by board of supervisors:**

*Central Irr. Dist. vs. DeLappe*, 79 Cal. 351;

*Cullen vs. Glendora Water Co.*, 113 Cal. 517;

*Board of Directors vs. Tregea*, 88 Cal. 334-351;

*Imperial Water Co. vs. Supervisors*, 162 Cal. 14;

*Board of Directors vs. Kimball* (Wash.), 157 Pac. 38;

*Ahern vs. Board of Directors* (Colo.), 89 Pac. 963.

**Inclusion or exclusion after organization:**

Where the petitioner brings himself within the specified classes of those entitled to exclusion, he has an absolute right to such exclusion and writ of mandate will issue to enforce such right.

*Harelsan vs. South San Joaquin Irr. Dist.*, 20 Cal. App. 324.

**State engineer to furnish information.**

SEC. 2a. The state engineer shall have authority, and it shall be his duty, to give information so far as may be practicable to persons contemplating the organization of irrigation districts under the provisions of this act. Whenever the department of engineering shall deem it in the public interest that preliminary surveys and field investigations of proposed irrigation district projects shall be made at the expense of the state, the state engineer shall make such surveys and field investigations of such proposed irrigation district projects, and, pending the completion of such surveys and investigation, the state water commission shall have authority to withhold from appropriation any unappropriated waters likely to be needed therefor. (Stats. 1917, p. 755.)

**Order of supervisors reaffirming conclusions.**

SEC. 3. Upon the final hearing of said petition or said matter, the board of supervisors shall make an order reaffirming its conclusions as to the genuineness and sufficiency of the petition and notice hereinbefore

provided for, reciting that a report regarding the proposed district has been made by the state engineer and is on file with the other records of the board, and describing the boundaries of the proposed district as defined and established by said board. Said order shall be entered in full upon the minutes of said board. At said final hearing no evidence shall be heard against the genuineness or sufficiency of said petition or notice unless it shall be shown to the satisfaction of said board that new evidence which, if uncontradicted, would disprove the genuineness or sufficiency of said petition or notice has been discovered since said board adopted the resolution declaring that said petition and notice complied with all the requirements of this act. In case any new evidence is admitted, full opportunity shall be given for the introduction of evidence in rebuttal thereof. (Stats. 1913, p. 996.)

Sufficiency of petition and genuineness of signatures to be determined by board of supervisors.

*Imperial Water Co. vs. Supervisors*, 162 Cal. 14-19.

#### Finding of board to be conclusive.

SEC. 4. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. (Stats. 1911, extra session, p. 139.)

Former section 4 providing for appeal to superior court was unconstitutional.

*Chinn vs. Superior Court*, 156 Cal. 478.

#### Conclusiveness of order:

*Fallbrook Irr. Dist. vs. Bradley*, 164 U. S. 112, 171;  
*People vs. Hagar*, 52 Cal. 171-182;  
*Board of Directors vs. Tregoe*, 88 Cal. 335-54;  
*In re Madera Irr. Dist.*, 92 Cal. 296-324;  
*O'Neill vs. Yellowstone Dist. (Mont.)*, 121 Pac. 283;  
*Progressive Irr. Dist. vs. Smith (Idaho)*, 156 Pac. 1133;  
*Board of Directors vs. Peterson (Ore.)*, 129 Pac. 123;  
*Links vs. Anderson (Ore.)*, 168 Pac. 605;  
*Herrett vs. Warm Springs Dist. (Ore.)*, 168 Pac. 609;  
*Andrews vs. Lillian Irr. Dist. (Nebr.)*, 97 N. W. 336;  
*Sowerwine vs. Central Dist. (Nebr.)*, 124 N. W. 119;  
*Ells vs. Board of Supervisors (Cal. App.)*, 176 Pac. 709.

#### Statute of limitations:

(See Sec. 72 *infra*.)  
*In re Central Irr. District*, 117 Cal. 382;  
*People vs. Perris Irr. Dist.*, 142 Cal. 601;  
*Müller vs. Perris Irr. Dist.*, 85 Fed. 693;  
*Tulare Irr. Dist. vs. Shepard*, 185 U. S. 1-18, 46 L. Ed. 773, 781;  
*Progressive Irr. Dist. vs. Anderson (Idaho)*, 114 Pac. 16-18.

Bona fide attempt to organize followed by user:

*Tulare Irr. Dist. vs. Shepard*, 185 U. S. 1.

#### Divisions in district and election of directors.

SEC. 5. If, on said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof; *provided*, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that

only three directors be elected, and that the directors may be elected by the district at large, or by divisions, as such petition shall provide, but in any event such directors shall be elected to represent separate divisions and shall be residents of the respective divisions they are elected to represent. (Stats. 1915, p. 1368.)

*Cullen vs. Glendora Water Co.*, 113 Cal. 503.

### ELECTION ON ORGANIZATION.

#### Election on organization.

SEC. 6. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, and shall designate a name for the proposed district, and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or words equivalent thereto, and also the names of persons to be voted for at said election. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, but no particular form of ballot shall be required.

*Central Irr. Dist. vs. DeLappe*, 79 Cal. 351;  
*Cullen vs. Glendora Water Co.*, 113 Cal. 503;  
*Links vs. Anderson (Ore.)*, 168 Pac. 1182.

#### Officers to be elected.

SEC. 7. At such election there shall be elected a board of directors, and an assessor, tax collector, and treasurer; *provided*, that where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated.

#### Qualifications of electors.

SEC. 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

*In re Madera Irr. District*, 92 Cal. 321.

#### Canvass of votes; majority to determine organization.

SEC. 9. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast



thereat, and if upon such canvass it appears that at least two-thirds of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes, declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected.

NOTE.—The above section is now in force. The following section was substituted by the Legislature in 1919, but is delayed from going into effect by referendum, and will be voted on by the people at the general election in November, 1920, or at any special election which may be called by the Governor, in his discretion, prior to such regular election.

SEC. 9. (*Withheld by referendum.*) The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that a majority of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected. (Stats. 1919, p. 718.)

*Imperial Water Co. vs. Supervisors*, 162 Cal. 14-19;  
*Progressive Irr. Dist. vs. Anderson* (Idaho), 114 Pac. 16.

#### Order to be filed with county recorder.

SEC. 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last-mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

Courts have no power to dissolve an irrigation district in the absence of statutory authority.

*People vs. Selma Irrigation Dist.*, 98 Cal. 206.

When the organization of the district has been declared by order of the board of supervisors, the order is notice to its inhabitants and to the world of its existence and of its boundaries.

*Fogg vs. Perris Irr. District*, 154 Cal. 209;  
*Progressive Irr. Dist. vs. Anderson* (Idaho), 114 Pac. 16.

#### Election may be contested; appeal.

SEC. 11. Such election, on organization, may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; *provided*, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly

conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

#### **Tenure of office.**

SEC. 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

Officers of irrigation district are public officers.

*In re Madera Irr. District*, 92 Cal. 296;

*People vs. Selma District*, 98 Cal. 206.

### **DUTIES AND POWERS OF THE BOARD OF DIRECTORS.**

#### **Duties and powers of board of directors.**

SEC. 13. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

Board of directors have no power to appoint their own members as secretary or superintendent.

*Interstate Trust Co. vs. Steele* (Colo.), 173 Pac. 873-5.

#### **Monthly meetings; quorum.**

SEC. 14. The board of directors shall hold a regular meeting on the first Tuesday of each month at the place selected as the office of the board; *provided*, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is kept. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days notice thereof must be given to the secretary by each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special

meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and three members shall constitute a quorum for the transaction of business; *provided, however*, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors; *provided, also*, that when a day other than the first Tuesday in the month shall have been specified as the time for the regular meeting of the board of directors, thereafter the newly elected officers of the district shall take office at noon on the day fixed for the regular monthly meeting of said board in March and said board shall meet for reorganization and the transaction of any other business of the district in the afternoon of said day. (Stats. 1917, p. 755.)

*Imperial Land Co. vs. Imperial Irr. District*, 173 Cal. 660-5.

#### Publication of financial condition.

SEC. 14a. The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper, published in the county where the office of the board of directors of such district is situated. (Stats. 1917, p. 756.)

#### General powers of directors.

SEC. 15. The board of directors shall have the power and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties.<sup>1</sup> The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. Said board shall also have the right to acquire, by purchase, lease, contract, condemnation,<sup>2</sup> or other legal means, all lands, and waters, and water rights, and other property necessary for

<sup>1</sup>Section 7 of the Workmen's Compensation, Insurance and Safety Act of 1917 (as amended by Stats. 1919, p. 913) provides that the term "employer" as used in the act, shall be construed to include irrigation districts.

<sup>2</sup>For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution, page 11 hereof.



the construction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, whether in this or in other states<sup>1</sup> or in a foreign nation, including canals, and works constructed and being constructed by private owners,<sup>2</sup> lands for reservoirs for the storage of needful waters, and all necessary appurtenances, and also where necessary or convenient to said ends to acquire and hold the stock of other corporations domestic or foreign<sup>3</sup> owning waters, canals, water-works, franchises, concessions or rights. Said board may enter into, and do any acts necessary or proper for the performance of, any agreements with the United States,<sup>4</sup> or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might lawfully be acquired or owned by the irrigation district, and may acquire the right to store water in any reservoirs or to carry water through any canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of the right to the use of any water the right to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district.<sup>3</sup> (Stats. 1919, p. 661.)

Irrigation district may sue and be sued.

*Boehmer vs. Big Rock Irr. Dist.*, 117 Cal. 19;

*Peters vs. Union Gap Irr. Dist.* (Wash.), 167 Pac. 1085;

*Noon vs. Gem Irr. District*, 205 Fed. 402.

Power of directors to make contracts:

*Board of Directors vs. Peterson* (Ore.), 128 Pac. 837;

*Colburn vs. Wilson* (Idaho), 130 Pac. 381;

*Hansen vs. Kittitas Dist.* (Wash.), 134 Pac. 1083.

*Warm Springs Irr. Dist. vs. Pacific Live Stock Company* (Ore.), 173 Pac. 265.

SEC. 15a. (Repealed Stats. 1919, p. 661, Ch. 339.)

#### Dams; conveyances.

SEC. 15b. The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each landowner in said district for irrigation and domestic purposes; *provided*, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only. The said board is hereby authorized and

<sup>1</sup>For regulations governing agreements with irrigation districts in adjoining states, see supplementary act of 1917 (Stats. 1917, p. 905).

<sup>2</sup>The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

<sup>3</sup>Districts are given authority to acquire the stock of any foreign corporation owning a system in a foreign country by Art. IV., Sec. 31, of the Constitution, page 11 hereof.

<sup>4</sup>Authority to enter into agreements with the United States government under the federal reclamation laws is given by Stats. 1917, p. 243 and p. 781. Supplementary powers are also given by Stats. 1907, p. 569, providing for drainage by districts, and Stats. 1913, p. 75, permitting the employment of agricultural experts by districts.

empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. (Stats. 1917, p. 758.)

Right to contract with mutual water company to deliver water to district sustained under Idaho statute.

*Pioneer Irr. Dist. vs. Stone* (Idaho), 130 Pac. 382.

### Rules for use of water.

SEC. 15c. It shall be the duty of the board of directors of any irrigation district to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. (Stats. 1917, p. 758.)

#### General and implied powers:

*City of Nampa vs. Nampa, etc., Dist.* (Idaho), 131 Pac. 8;

*Stevens vs. Melville* (Utah), 175 Pac. 602-4.

#### Power to make and enforce rules:

*Hamp vs. State* (Wyo.), 118 Pac. 653, 662;

*La Mesa Community Ditch vs. Appelzocler* (N. Mex.), 140 Pac. 1051.

### Change election precincts; lease canals.

SEC. 15d. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions or election precincts of the district or of both; *provided*, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions and precincts must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the state, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and works in the district, or any part thereof, whenever such leasing may be for the benefit of the district; *provided*, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all such bids. Such lease shall in no way interfere with any rights that may have been established by law, at the time such lease is made; *and, further provided*, that the

board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees. (Stats. 1917, p. 758.)

Lease or transfer of property:

*Byington vs. Sacramento Valley, etc., Co.*, 170 Cal. 124, 130.

SEC. 15½. (Renumbered as section 15*d* by Stats. 1917, p. 758.)

### Condemnation proceedings.

SEC. 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three of the Code of Civil Procedure of the State of California, and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceedings hereunder.<sup>1</sup> (Stats. 1917, p. 759.)

Condemnation, procedure:

*Warm Springs Irr. Dist. vs. Pacific Live Stock Co.* (Ore.), 173 Pac. 265.

Power to condemn canals and water rights of irrigation district for more necessary public use, queried:

*Colburn vs. Wilson* (Idaho), 130 Pac. 381.

## WATER REGULATIONS.

### Water regulations.

SEC. 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, and for domestic and other incidental and beneficial uses, within such district,<sup>2</sup> together with the rights of way for canals and ditches,<sup>1</sup> sites for reservoirs, and all other property required in fully carrying out the provisions of this act is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law. (Stats. 1911, p. 512.)

### Apportionment of water.

SEC. 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; and any land owner may assign the right to the whole or any portion of the waters so apportioned to him; *provided*, that when any rates of toll and charges for the use of water are fixed by the board of directors, as provided in section fifty-five of this act, the water for the use of which such rates of toll and charges have been fixed shall be distributed equitably, as may be provided by the board of directors, among those offering to make the required payment therefor; *and provided, further*, that if an irrigation district has contracted to deliver, and is delivering, water to mutual water companies for distribution to territory served thereby, the water shall be apportioned

<sup>1</sup>For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution, page 11 hereof.

<sup>2</sup>See Art. XIV, Sec. 1, of the Constitution, page 12 hereof, declaring use of water a public use. Also "An act regarding irrigation and declaring the same to be a public use," approved May 1, 1911, Stats. 1911, p. 1407.



on such a basis as the board of directors shall find to be just and equitable and for the best interests of all parties concerned. (Stats. 1919, p. 661.)

*Board of Directors vs. Tregoe*, 88 Cal. 353;  
*Merchants, etc., Bank vs. Escondido Seminary*, 144 Cal. 329;  
*Jennison vs. Redfield*, 149 Cal. 500.

### GENERAL ELECTIONS.

**Irrigation district officers to be elected.**

SEC. 19. An election, which shall be known as the general irrigation district election, shall be held in each irrigation district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term shall expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The elective officers of an irrigation district shall be as many directors as there are divisions in the district, and an assessor, a collector and a treasurer; *provided*, that if any two or more offices shall have been consolidated as provided in section seven or section twenty-seven hereof, only one person shall be elected to fill such consolidated offices. The term of office of each elective officer of an irrigation district elected at or after the general irrigation district election in one thousand nine hundred nineteen shall be four years, or until his successor is elected and has qualified. (Stats. 1917, p. 759.)

### Official bonds.

SEC. 19a. Within ten days after receiving their certificates of election hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; *provided*, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount of the collector's bond not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; *provided*, that in case any district organized under this title is appointed fiscal agent of the

United States or by the United States in connection with any federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. (Stats. 1917, p. 760.)

Form and condition of official bond:

Political Code, sections 954, 958.

Vacancy created by failure of officer to qualify:

Political Code, section 996, subdivision 9.

#### **If election be not held.**

SEC. 19b. If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by ten per cent of the electors residing within the boundaries of any such irrigation district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. (Stats. 1917, p. 760.)

#### **Beginning of term; organization of board.**

SEC. 20. At noon of the first Tuesday in March next following their election, except as provided in section fourteen of this act, the officers who shall have been elected at the preceding general irrigation district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. (Stats. 1917, p. 761.)

#### **Notice of elections; election officers.**

SEC. 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in

its order appointing the board of election, designate the house or place within the precinct where the election must be held.

#### **Powers and duties of election officers.**

SEC. 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election of each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at 8 a.m. on the morning of the election, and be kept open until 4 p.m., when the same must be closed. (Stats. 1909, p. 1062.)

Opening and closing polls:

*Board of Directors vs. Abila*, 106 Cal. 365.

#### **Ballots; manner of voting.**

SEC. 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Where more than one person is to be elected for an office of the same title, the words "Vote for — (inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. (Stats. 1909, p. 1062.)

Form of ballot:

Political Code, section 1197, subdivision 8;  
*Edes vs. Haley* (Wash.), 162 Pac. 50.

#### **Nominating petitions.**

SEC. 22b. Not less than ten days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district. (Stats. 1909, p. 1063.)

#### **Voting and counting of votes.**

SEC. 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and



shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Right of contest of election of officers elected at irrigation district election:

*Hertle vs. Ball* (Idaho), 72 Pac. 953.  
(See, also, Sec. 72, *infra*.)

#### Canvass of votes.

SEC. 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

Canvassing returns and declaring result:

*Board of Directors vs. Abila*, 106 Cal. 355;  
*Edes vs. Haley* (Wash.), 162 Pac. 50.

#### Statement of results; vacancies, how filled.

SEC. 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the

names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; *provided*, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

#### Qualification of director.

SEC. 26. A director shall be a resident and freeholder of the irrigation district and a resident of the division which he is elected to represent. (Stats. 1917, p. 761.)

The acts of an officer, though not qualified for want of residence within the district, will be regarded as valid acts of an officer *de facto*.

*Baxter vs. Vineland Irr. Dist.*, 136 Cal. 185, 193.

#### Consolidation of offices.

SEC. 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; *provided*, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

#### Number of directors.

SEC. 28. In any district the board of directors thereof must upon a presentation of the petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors. (Stats. 1917, p. 761.)

#### Recall of officers.

SEC. 28½. The holder of any elective office of any irrigation district may be removed or recalled at any time by the electors; *provided*, he has held his office at least six months. The provisions of this section are intended to apply to officials now in office, as well as to those hereafter elected. The procedure to effect such removal or recall shall be

as follows: A petition demanding the election of a successor to the person sought to be removed shall be filed with the secretary of the board of directors of such district, which petition shall be signed by registered voters equal in number to at least twenty-five per cent of the highest vote cast within such district for candidates for the office, the incumbent of which is sought to be removed, at the last general election in such district at which an incumbent of such office was elected, or, in the case of the removal of the incumbent of an office elected by a subdivision of such district, such petition shall be signed by a like percentage of qualified electors of such subdivision computed upon the total number of votes cast in such subdivision for all candidates for the office, the incumbent of which is sought to be removed, at the last general election in such subdivision at which an incumbent of such office was elected; and said petition shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in nowise affect the validity of the election and proceedings held thereunder. The signatures to the petition need not all be appended to one paper. Each signer shall add to his signature his place of residence, giving the precinct, and if within a town having named streets and numbered houses, street and number. Each such separate paper shall have attached thereto an affidavit made by an elector of the district and sworn to before an officer competent to administer oaths, stating that the affiant circulated that particular paper and saw written the signatures appended thereto; and that according to the best information and belief of the affiant, each is the genuine signature of the person whose name purports to be thereunto subscribed and of a qualified elector of the district. Within ten days from the date of filing such petition, the secretary of the board shall examine and from the records of registration ascertain whether or not said petition is signed by the requisite number of qualified electors, and he shall attach to said petition his certificate showing the result of said examination. If by the said certificate the petition is shown to be insufficient, it may be supplemented within ten days from the date of such certificate, by the filing of additional papers, duplicates of the original petition except as to the names signed. The secretary shall, within ten days after such supplementing papers are filed, make like examination of a supplementing petition, and if a certificate shall show that all the names to such petition, including the supplemental papers, are still insufficient, no action shall be taken thereon; but the petition shall remain on file as a public record; and the failure to secure sufficient names shall be without prejudice to the filing later of an entirely new petition to the same effect. If the petition shall be found to be sufficient, the secretary shall submit the same to the board of directors without delay, whereupon the board shall forthwith cause a special election to be held within not less than thirty-five nor more than forty days after the date of the order calling such election, to determine whether the voters will recall such officer; *provided*, that if a general election is to occur within sixty days, from the date of the order calling for such election, the board may in its discretion postpone the holding of such election to such general election or submit such recall election at any



such general election for officers of such district occurring not less than thirty-five days after such order. If a vacancy occur in said office after a recall petition is filed, the election shall nevertheless proceed as in this section provided. One petition is sufficient to propose a removal and election of one or more elective officials. One election is competent for the removal and election of one or more elective officials. Nominations for any office under such recall election shall be made in the manner prescribed by section twenty-two *b* of this act.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (X) his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The election shall be conducted, canvass of all votes for candidates for said office shall be made and the result declared in like manner as in a regular election within such district. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law. If the vote at any such recall election shall not recall the officer, no further petition for the recall of such officer shall be filed before the expiration of six months from the date of such first recall election. (Stats. 1911, Extra Session, p. 135.)

This section is constitutional.

*Wigley vs. South San Joaquin Irr. Dist.*, 31 Cal. App. 162, 159 Pac. 985.

## TITLE TO PROPERTY.

### Title to property vests in district.

SEC. 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district, in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided. The board of directors may determine by resolution duly entered upon their minutes that any property, real or personal, held by such

irrigation district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell such property; and a conveyance of any property held by an irrigation district, executed by the president and secretary thereof, in accordance with a resolution of the board of directors of such district, when sold for a valuable consideration, shall convey good title to the property so conveyed. (Stats. 1909, p. 1075.)

*Merchants Bank vs. Escondido Seminary*, 144 Cal. 329;  
*Jennison vs. Redfield*, 149 Cal. 500;  
*Tulare Irr. Dist. vs. Collins*, 154 Cal. 440.

## ISSUANCE OF BONDS.

### Estimate of money needed for improvements.

SEC. 30. For the purpose of constructing or purchasing necessary irrigation canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights, reservoirs, reservoir sites, and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, or any other act under which said district is or may be authorized to acquire property or construct works, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the board of directors shall find that the construction fund raised by the last previous bond issue is insufficient, or that the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for said estimate. Said surveys, examinations, drawings and plans, and the estimate based thereon may provide that the works necessary for a completed project shall be constructed progressively during a period of years. In the estimate of the amount of money necessary to be raised by the first issue of bonds in any district, the board of directors may include a sum sufficient to pay the interest on all of such bonds for three years or less. All such surveys, examinations, drawings and plans shall be made under the direction of a competent irrigation engineer and shall be certified by him. (Stats. 1919, p. 662.)

#### Purposes for which bonds may be issued:

*Hughson vs. Crane*, 115 Cal. 404;  
*Stinson vs. Alessandro Dist.*, 135 Cal. 389;  
*Leeman vs. Perris Irr. Dist.*, 155 Cal. 215;  
*Hooker vs. East Riverside Dist.*, 27 Cal. App. Dec. 623;  
*Stowell vs. Rialto Irr. Dist.*, 155 Cal. 215.  
 (See Sec. 61b, *infra*.)

#### Plans and estimate:

*Cullen vs. Glendora Water Co.*, 113 Cal. 503;  
*Hughson vs. Crane*, 115 Cal. 404;  
*Hanson vs. Kittitas Dist.* (Wash.), 134 Pac. 1083;  
*Board of Directors vs. Scott* (Wash.), 140 Pac. 391.

### Report submitted to irrigation district bond commission.

SEC. 30a. The board of directors shall then submit a copy of the said estimate and the said engineer's report to the commission authorized

by law to approve bonds of irrigation districts for certification as legal investments for savings banks and for the other purposes specified in the act creating said commission.<sup>1</sup> Said commission shall forthwith examine said report and any data in its possession or in the possession of said district and shall make such additional surveys and examinations at the expense of the district as it may deem proper or practicable, and as soon as practicable thereafter shall make to the board of directors of said district a report which shall contain such matters as, in the judgment of the said commission, may be desirable; *provided*, that it may state generally the conclusions of said commission regarding the supply of water available for the project, the nature of the soil proposed to be irrigated as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage, the cost of works, water rights and other property necessary for a complete and satisfactory project, the proper dates of maturity for the bonds proposed to be issued and whether in its opinion it is advisable to proceed with the proposed bond issue. If the estimate of the amount of said bond issue shall have included any amount for the payment of interest on the bonds of such issue, as provided in section thirty of this act, and such estimate for the payment of interest, or any part thereof, is approved by the commission in said report, it shall be lawful for the board of directors, if the issuance of such bonds is thereafter authorized by vote of the electors of the district, to use for the payment of interest on any bonds of such issue so much of the proceeds of the sale of said bonds as may have been approved for that purpose in said report of the commission. (Stats. 1919, p. 662.)

#### **Order determining amount of bonds.**

SEC. 30b. If after such examination and investigation the said commission shall deem it advisable that the said plans be modified or that the amount of the bonds proposed to be issued be changed, or that certain conditions should be prescribed to insure the success of the project, or that in its opinion it is not advisable to proceed with the proposed bond issue, it shall so state in its report to the board of directors. After receiving said report, or if no report is received within ninety days after the submission of said estimate and engineer's report to said commission, said board of directors, if it shall determine and shall declare by resolution that the proposed plan of works or some modified plan recommended by said commission is satisfactory and that the said project or said modified plan is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary therefor; *and provided, further*, that if any district shall issue bonds to carry out any plans approved by said irrigation district bond commission as herein provided it shall be unlawful for said district to make any material change in said plans thereafter without the consent of said commission. (Stats. 1919, p. 663.)

#### **Special election.**

SEC. 30c. After the making of the order specified in section thirty b of this act said board of directors may call a special election, at which

<sup>1</sup>See page 168 hereof.



shall be submitted to the electors of such district possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount determined in said order of said board shall be issued, and said board must call such an election and submit said question upon receipt of a petition signed by a majority of the holders of title or evidence of title to lands within the district, representing, also, a majority in value of said lands, or by at least five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing within the district or a holder of title or evidence of title to lands therein, provided that said petitioners shall include the holders of title or evidence of title to not less than twenty per cent in value of said lands. In determining the value of any lands within an irrigation district and the holders of title or evidence of title to such lands for the purpose of determining the sufficiency of any petition required by this act after the organization of the district, the assessment roll of the district last equalized at the time of the presentation of such petition shall be conclusive evidence, but if no assessment roll of the district has theretofore been equalized, then the county assessment roll of the county within which any lands within the district is situated, which county assessment roll has been last equalized at the time of the presentation of such petition, shall be conclusive evidence of such facts for such land. (Stats. 1919, p. 664.)

Who may sign petition:

*Matter of Bonds of South San Joaquin Irr. District*, 161 Cal. 345.

Election:

*Board of Directors vs. Abila*, 106 Cal. 365.

### Notice of election.

SEC. 30*d*. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; *provided*, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. (Stats. 1917, p. 762.)

### Questions on ballot; two-thirds vote.

SEC. 30*e*. At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the irrigation district bond commission has reported thereon and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a general statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in such statement shall vitiate the election. Each proposition shall be followed by the words "Yes" and

"No," on separate lines, with a small inclosed space after each of said words. The electors shall vote for or against any proposition by stamping a cross (X) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (X) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (X) in the voting space after the word 'No' following the proposition." If two-thirds of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; *provided*, that if said election shall have been called after the presentation of a petition therefor as provided in section thirty c of this act, the board of directors shall cause bonds in the amount specified in any proposition to be issued if a majority of the votes cast for and against said proposition are for "Yes." If the number of votes for any proposition is less than the number required herein to authorize the issuance of the bonds provided for therein, the result of the vote on said proposition shall be entered of record, but said proposition may be again submitted to the electors of the district at a special election upon the presentation to the board of directors of a petition therefor signed as provided in section thirty c of this act. (Stats. 1919, p. 664.)

#### **Life of bonds; interest; denominations.**

SEC. 31. Subject to the provisions of this act, the board of directors shall prescribe the form of the bonds issued by the district and of the interest coupons to be attached thereto. An issue of bonds is hereby defined to be all the bonds issued in accordance with a proposal approved by the electors of the district. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of directors shall fix the date of said bonds, or may divide any issue into two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the election at which its issuance was authorized and prior to its delivery to a purchaser from the district. The date of issue of any bond authorized under this act or heretofore or hereafter issued in pursuance of this act shall be deemed to be the apparent date of the said bond appearing on the face thereof. Each bond shall be signed by the president and secretary of the board of directors of the district, who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, and the seal of the district shall be impressed on each bond. The interest coupons shall also bear the signature of the secretary of the board of directors or a facsimile of such signature. The board of directors shall fix the denominations of said bonds, which shall not be less than one hundred dollars nor more than one thousand dollars. Said bonds shall bear interest at a rate to be fixed by the board of directors, but the rate shall not exceed six per centum per annum. The interest shall be payable on the first day of January and the first day of July of each year. The board of directors shall also designate the place or places at which

said bonds or any of them and the interest thereon shall be payable.<sup>1</sup> Each issue or each division of any issue of said bonds shall be payable in gold coin of the United States in twenty series as follows, to wit: at the expiration of twenty-one years from the date of any issue or any division of any issue of said bonds, two per centum of the whole amount of such issue or division; at the expiration of twenty-two years from said date, two per centum of the whole amount of such issue or division; at the expiration of twenty-three years from said date, three per centum of the whole amount of such issue or division; at the expiration of twenty-four years from said date, three per centum of the whole amount of such issue or division; at the expiration of twenty-five years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-six years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-seven years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-eight years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-nine years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-one years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-two years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-three years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-four years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-five years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-six years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-seven years from said date, seven per centum of the whole amount of such issue or division; at the expiration of thirty-eight years from said date, seven per centum of the whole amount of such issue or division; at the expiration of thirty-nine years from said date, eight per centum of the whole amount of such issue or division; at the expiration of forty years from said date, eight per centum of the whole amount of such issue or division; *provided*, that if any bonds are not dated on the first day of January or the first day of July, they shall nevertheless be made payable on the first day of January or the first day of July next preceding the date on which they would become payable according to the foregoing schedule. Bonds of any issue may be made payable at the ends of other periods than are specified herein and the number of series may be more or less than twenty if the number of series and the length of the respective periods at the ends of which the respective amounts of bonds shall be made payable have been specified in the notice of the election at which the issuance of such bonds was authorized, or on the recommendation of the irrigation district bond commission, but in any event the bonds shall all be made payable on the first day of January or the first day of July next preceding the ends of the respective periods specified, unless said

<sup>1</sup>Art. XI, Sec. 13 $\frac{1}{2}$ , of the Constitution, authorizes the payment of bonds and interest in any place within or outside of the United States. See page 12 hereof.



bonds are dated on the first day of January or the first day of July, and in no case shall the maturity of any bond be more than forty years from the date thereof, nor shall more than eight per centum of the total amount of any issue or division be made payable in any one year if the number of series is made more than twenty. Each bond shall be made payable at a given time for its full face value and not for a percentage thereof. (Stats. 1919, p. 665.)

Date of maturity of bonds and time of payment of interest:

*Stowell vs. Rialto Irr. Dist.*, 155 Cal. 215;  
*Board of Directors vs. Peterson* (Oré.), 128 Pac. 337.

Date of issue, signature of secretary, etc.:

*Wright vs. East Riverside District*, 138 Fed. 313;  
*Hooker vs. East Riverside District*, 27 Cal. App. Dec. 623.

Validity of bonds in hands of bona fide holders:

*Stimson vs. Alessandro Dist.*, 135 Cal. 389;  
*Baxter vs. Vineland Dist.*, 136 Cal. 185;  
*Haege vs. Heitzeg*, 159 Cal. 659;  
*Ham vs. Grapeland Dist.*, 172 Cal. 611.

### Sale of bonds.

SEC. 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the construction of said canals and works, the acquisition of said property and rights, or the acquisition of any water or water rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders; *provided, however*, that they may reject any or all bids. (Stats. 1913, p. 1000.)

*Kinkade vs. Witherop* (Wash.), 69 Pac. 399;  
*Wyman vs. Searle* (Nebr.), 128 N. W. 801.

SEC. 32a. (Repealed by Stats. 1919, p. 667.)

### Election on sale of bonds for less than par.

SEC. 32½. If any irrigation district bonds have been authorized before the time when this section shall go into effect but have not been sold and the board of directors of said district deems it desirable that said board be authorized to sell said bonds for less than the par value thereof, said board may call a special election to submit to the voters of the district said proposition. Such election shall be held and notice thereof shall be given in the same manner as is provided in the case of special elections to authorize the issuance of bonds in irrigation districts. The proposition shall be stated in substantially the following form: "Shall the board of directors of ----- (insert the name)

irrigation district be authorized to sell bonds of the district for less than the par value thereof?" followed by the words "Yes" and "No," as provided in section thirty hercof. If at least two-thirds of the legal votes cast at such election are for "Yes," then the board of directors may sell any bonds authorized by said district before this section shall take effect to the highest responsible bidder. (Stats. 1913, p. 1000.)

#### **Paid by annual assessment.**

SEC. 33. Said bonds and the interest thereon shall be paid from revenue derived from an annual assessment upon the land within the district; and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided. (Stats. 1917, p. 764.)

#### **Procedure for enforcement of lien:**

*Nevada National Bank vs. Poso Irr. Dist.*, 140 Cal. 344;  
*Boskowitz vs. Thompson*, 144 Cal. 724;  
*Herring vs. Modesto District*, 95 Fed. 705;  
*Perkins vs. People (Colo.)*, 147 Pac. 356;  
*Henrylyn Irr. Dist. vs. Thomas (Colo.)*, 173 Pac. 541;  
*Henrylyn Irr. Dist. vs. Thomas (Colo.)*, 181 Pac. 979, 980;  
*Rialto Irr. Dist. vs. Stowell*, 246 Fed. 294;  
*Norris vs. Montezuma Irr. Dist.*, 248 Fed. 369.  
*Gas Securities Co. vs. Antero and Lost Park Reservoir Co.*, 259 Fed. 423.

### **ASSESSMENT FOR COMPLETION OF WORKS.**

#### **Assessments to complete works; notice of election; ballots.**

SEC. 34. In case the money raised by the sale of bonds issued be insufficient, or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and the acquisition of the necessary property, waters and water rights therefor, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan, and the acquisition of such necessary property, waters and water rights, by levy of assessments therefor; *provided, however*, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; *provided*, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes", or "Assessment—No", or words equivalent thereto. If a majority of

the votes cast are "Assessment—Yes", the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No", the result of such election shall be so declared and entered of record. (Stats. 1911, p. 514.)

*Cooper vs. Miller*, 113 Cal. 238;  
*Matter of Bonds of South San Joaquin Dist.*, 161 Cal. 345;  
*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 668;  
*Corson vs. Crocker*, 31 Cal. App. 626.

## DUTIES OF THE ASSESSOR.

### Duty of assessor; improvements exempt.

SEC. 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real estate in the district, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment book<sup>1</sup> with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (1) the name of the person to whom the property is assessed, if the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) land by township, range, section or fractional section, and when such land is not congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres and locality; (3) city and town lots, naming the city or town and the number and block, according to the system of numbering in such city or town; (4) the cash value of real estate, other than city or town lots; (5) the cash value of city and town lots; (6) the total value of all property assessed; (7) the total value of all property after equalization by the board of directors; (8) such other things as the board of directors may require. Improvements on any lands or town lots within such districts shall be exempt from taxation for any of the purposes mentioned in this act. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description erected or being erected upon said lands or city or town lots. (Stats. 1917, p. 764.)

*Cooper vs. Miller*, 113 Cal. 238;  
*Escondido H. S. Dist. vs. Escondido Seminary*, 130 Cal. 128;  
*Best vs. Wohlford*, 144 Cal. 733;  
*Best vs. Wohlford*, 153 Cal. 17;  
*Imperial Land Co. vs. Imperial Irr. Dist.*, 173 Cal. 668;  
*Corson vs. Crocker*, 31 Cal. App. 626;  
*Bruschi vs. Cooper*, 30 Cal. App. 682.

### Assessor's deputies.

SEC. 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed.

<sup>1</sup>Pol. C., Sec. 3653, provides that, upon written request, the county assessor must furnish the district with a certified copy of the assessment book, so far as it pertains to property within the district.



The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

**Time for completion of assessment book; time for equalizing assessments.**

SEC. 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested.

*Lahman vs. Hatch*, 124 Cal. 1.

### EQUALIZATION OF ASSESSMENT.

**Hearings on objections to assessments.**

SEC. 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added.

*Lahman vs. Hatch*, 124 Cal. 1.

*Imperial Land Co. vs. Imperial Irr. Dist.*, 173 Cal. 668.

### LEVY OF AND COLLECTION OF TAXES.

**Assessment for interest, principal, rentals, etc.**

SEC. 39. The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the time for levying the next annual assessment, on account of rentals, or charges for lands, water

or water rights acquired by said district under lease or contract; also sufficient to pay in full all sums due or that will become due from the district, before the time for levying the next annual assessment, on account of contracts entered into by the district for power or fuel used or to be used for the pumping of water for the irrigation of land within the district; *provided*, the payment of the cost of such power or fuel has not been provided for by the levying of tolls or charges for the use of water or otherwise; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligation of the district which shall have been reduced to judgment; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment roll thereof, as the board of directors shall determine may be needed to be raised by assessment for any of the purposes of this act. (Stats. 1919, p. 472.)

*Cooper vs. Miller*, 113 Cal. 238;  
*Hughson vs. Crane*, 115 Cal. 404;  
*Lahman vs. Hatch*, 124 Cal. 1;  
*Escondido H. S. Dist. vs. Escondido Seminary*, 130 Cal. 128;  
*Baxter vs. Vineland Irr. Dist.*, 136 Cal. 185;  
*Nevada National Bank vs. Poso Dist.*, 149 Cal. 662;  
*Matter of Bonds of South San Joaquin Dist.*, 161 Cal. 345;  
*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 660;  
*Hewel vs. Hogan*, 3 Cal. App. 248;  
*Nevada National Bank vs. Supervisors*, 5 Cal. App. 638;  
*Corson vs. Crocker*, 31 Cal. App. 626;  
*Board of Supervisors vs. Thompson*, 122 Fed. 860;  
*Eberhard vs. Canon (Colo.)*, 157 Pac. 189;  
*Rio Grande, etc., Co. vs. Orchard Mesa District (Colo.)*, 171 Pac. 367.

"Outstanding bonds" defined.

*Board of Directors vs. Tregoe*, 88 Cal. 334, 356.

### Duty of secretary.

SEC. 39a. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. (Stats. 1917, p. 765.)

*McDonough vs. Cooper*, 56 Cal. Dec. 529, 177 Pac. 153.

### Neglect to make assessment.

SEC. 39b. If as the result of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors of said district is situated shall cause an assessment roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time

when proper demand shall have been made therefor. In case of the neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in special fund to the credit of the district and shall disburse the same to the proper persons for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. (Stats. 1917, p. 765.)

#### Duty of district attorney.

SEC. 39c. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action, as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the attorney general of the State of California that the district attorney of any county has not performed any duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the performance of any such duty, the attorney general shall make an investigation, and if it shall be found that such charge or charges are true, said attorney general shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. (Stats. 1917, p. 766.)

#### Extension of time.

SEC. 39d. If as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent



upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section forty-one of this act. (Stats. 1917, p. 767.)

#### **Assessment of land omitted.**

SEC. 39e. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for the purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessment on possession of, claim to, or right to the possession of land now provided in sections three thousand eight hundred twenty, three thousand eight hundred twenty-one, three thousand eight hundred twenty-two, three thousand eight hundred twenty-three, three thousand eight hundred twenty-four, three thousand eight hundred twenty-five and three thousand eight hundred twenty-nine of the Political Code, as regards county assessors shall apply, so far as applicable to irrigation district assessors. (Stats. 1917, p. 767.)

#### **Unpaid tolls part of assessment.**

SEC. 39f. Whenever any tolls and charges for the use of water have been fixed by the board of directors, it shall be lawful to make the same payable in advance, and in case any such tolls or charges remain unpaid at the time hereinbefore specified for levying the annual assessment the amount due for such tolls and charges may be added to and become a part of the assessment levied upon the land upon which the water for which such tolls or charges are unpaid was used. (Stats. 1917, p. 768.)

#### **Assessment becomes a lien, when.**

SEC. 40. The assessment upon land is a lien against the property assessed from and after the first Monday in March for any year. (Stats. 1917, p. 768.)

#### **Notice that assessments are due; when delinquent.**

SEC. 41. On or before the first day of November, the secretary must deliver the assessment book to the collector of the district, who shall

within twenty days publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable and will become delinquent at six o'clock p.m. on the last Monday of December next thereafter,<sup>1</sup> and that unless paid prior thereto ten per cent will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid, with the description of the property assessed. On the last Monday in December at six o'clock p.m. of each year,<sup>1</sup> all unpaid assessments are delinquent and thereafter the collector must collect thereon, for the use of the district, an addition of ten per cent. (Stats. 1913, p. 1002.)

*San Diego vs. Linda Vista Dist.*, 108 Cal. 189;

*Perry vs. Otay Irr. Dist.*, 127 Cal. 565;

*Bruschi vs. Cooper*, 30 Cal. App. 682;

*Corson vs. Crocker*, 31 Cal. App. 626;

*Holland vs. Avondale Dist.* (Idaho), 166 Pac. 259.

#### Suit against delinquent, to collect assessment.

SEC. 41a. The board of directors may at any time after any assessment has become delinquent direct the collector not to proceed with the sale of any property on the delinquent list, but to bring suit against the delinquent in the proper court in the name of the district to enforce such collection. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and pleas are hereby made applicable to the proceedings herein provided for, and in such suit the district may recover the amount of said assessments together with the penalties and interests, provided in this act, and costs of suit. (Stats. 1915, p. 1368.)

Irrigation district assessment is an assessment for benefits.

*San Diego vs. Linda Vista Irr. Dist.*, 108 Cal. 189.

As to enforcement of collection by suit against delinquent, see

*Atchison T. & S. F. Ry. Co. vs. Reclamation Dist.*, 173 Cal. 91.

#### PUBLICATION OF DELINQUENT NOTICE.

##### Delinquent list; day of sale.

SEC. 42. On or before the first day of February, the collector must publish the delinquent list,<sup>2</sup> which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice, that unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be

<sup>1</sup>If provision has been made for the payment of assessments in two installments, one-half becomes delinquent at the above time and one-half at 6 p.m. on the last Monday of June next thereafter. See section 4 of the act of 1909 permitting payment of assessments in two installments, page 78 hereof.

<sup>2</sup>If provision has been made for the payment of assessments in two installments, publication of the delinquent list shall not be made before the first day of July, but must be made on or before the first day of August. See section 5 of the act of 1909 permitting the payment of assessments in two installments, page 78 hereof.

sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; *provided*, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district; *provided, however*, that if there should occur any error in the publication of the sale of the delinquent property, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder the collector shall at once republish the sale of the property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, and stated in such republication.

*Best vs. Wohlford*, 153 Cal. 17;  
*Bruschi vs. Cooper*, 30 Cal. App. 682-96.

### SALE FOR DELINQUENT TAXES.

#### Sale of property for delinquent taxes.

SEC. 43. The collector must collect, in addition to the assessments due on the delinquent list, and ten per cent added, fifty cents on each lot, piece or tract of land separately assessed. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he must give notice, the collector, between the hours of ten a.m. and three o'clock p.m., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; *provided*, that if any sale or sales shall be stayed by legal proceedings, the time of the continuance of such proceedings is not part of the time limited for making such sale or sales; *and provided further*, that in any district where the validity of any assessment shall be in litigation at the time this act shall take effect, the sale of any property, whether it be involved in such litigation or not, may be postponed for a time not to exceed four months. (Stats. 1913, p. 1003.)

*Woodruff vs. Perry*, 103 Cal. 611;  
*Baxter vs. Vineland Dist.*, 136 Cal. 185-193;  
*Bruschi vs. Cooper*, 30 Cal. App. 682;  
*Corson vs. Crocker*, 31 Cal. App. 626.

#### Rights of owner of realty; resale in default of payment; district may purchase.

SEC. 44. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate, in writing, to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the



collector may designate it and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock a.m. the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry, "sold to the district," and he shall be credited with the amount thereof in his settlement. An irrigation district as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; *provided*, that authority to so convey must be conferred by resolution of the board entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property.

Designation of least quantity, etc.:

*Best vs. Wohlford*, 153 Cal. 17-20.

Priority of tax liens:

*Nevada National Bank vs. Poso Dist.*, 140 Cal. 344;

*Henrylyn Irr. Dist. vs. Patterson* (Colo.), 176 Pac. 493;

(Political Code, section 3787; sec. 48 *infra*.)

### Certificate of sale.

SEC. 45. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder of the county in which the land is situated.

*Best vs. Wohlford*, 153 Cal. 17;

*Bruschi vs. Cooper*, 30 Cal. App. 682;

*Corson vs. Crocker*, 31 Cal. App. 626;

*McDonough vs. Cooper*, 56 Cal. Dec. 529, 530.

(See section 48 *infra*.)

### Record book of property sold for assessments.

SEC. 46. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book

must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests with the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money, and two per cent per month from the day of sale until redemption.

## REDEMPTION OF PROPERTY SOLD FOR DELINQUENT TAXES.

### Redemption of property.

SEC. 47. A redemption of the property sold may be made by the owner, or any party in interest, within five years from the date of purchase, or at any time thereafter before a deed has been made and delivered. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the recorder must mark the word "redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor in office, upon demand, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption; *provided*, that where property has been sold to the district it may be redeemed as herein provided, at any time before the district has disposed of the same. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed. (Stats. 1909, p. 429.)

*Bruschi vs. Cooper*, 30 Cal. App. 682.

### Delinquent taxes not bar to dissolution; deed of land sold.

SEC. 47½. The five year period herein prescribed for the redemption of properties sold for delinquent taxes shall not operate as a bar to the dissolution of any irrigation district. If any land has been sold for delinquent taxes of a district in process of dissolution, or in a district which has been dissolved, and the time allowed for redemption has not expired, the owner of such property or any one in interest may redeem the same by paying the amount due thereon, computed as provided in section forty-six of this act, to the county treasurer, who must issue his receipt therefor, and upon the presentation of such receipt the county recorder must cancel the certificate of sale in the manner required in the preceding section.

In the event any land has been sold for non-payment of taxes as herein provided, and no redemption has been made within five years

from the date of purchase in any district which may have been dissolved before the expiration of said redemption period, then a deed for the property sold and described in the certificate of sale must be made to the purchaser upon demand by the county treasurer of the county in which said irrigation district is or was situated. Such deed shall contain all the recitals of the certificate of sale, and in addition thereto, a recital that the district has been dissolved, and a deed executed in pursuance of the authority given by this section. A deed so executed shall have the same force and effect as if executed by the collector of an irrigation district. (Stats. 1911, p. 516.)

#### **Tax deed evidence of what.**

SEC. 48. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) that the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the United States, or this state, in which case it is prima facie evidence of the right of possession.

*Cooper vs. Miller*, 113 Cal. 238;  
*Escondido H. S. Dist. vs. Escondido Seminary*, 130 Cal. 128;  
*Best vs. Wohlford*, 144 Cal. 733;  
*Best vs. Wohlford*, 153 Cal. 17;  
*Haese vs. Heltzig*, 159 Cal. 569, 575;  
*McDonough vs. Cooper*, 56 Cal. Dec. 529;  
*Bruschi vs. Cooper*, 30 Cal. App. 682;  
*Corson vs. Crocker*, 31 Cal. App. 626.

#### **Assessment book evidence of what.**

SEC. 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

*Bruschi vs. Cooper*, 31 Cal. App. 682.

#### **Misnomer does not invalidate.**

SEC. 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof affects the sale, or renders it void, or voidable.

*Escondido H. S. Dist. vs. Escondido Seminary*, 130 Cal. 128;  
*Commercial National Bank vs. Schlitz*, 6 Cal. App. 174, 182;  
*Bruschi vs. Cooper*, 30 Cal. App. 682.



**Settlements between secretary and collector.**

SEC. 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

**REDEMPTION OF BONDS AND PAYMENT OF INTEREST.****Redemption of bonds.**

SEC. 52. Upon presentation of any matured bond or any matured interest coupon of any bond of the district, the treasurer shall pay the same from the bond fund. If funds are not available for the payment of any such matured bond or interest coupon, it shall draw interest at the rate of seven per cent per annum from the date of its presentation for payment until notice is given that funds are available for its payment, and it shall be stamped and provision made for its payment as in the case of a warrant for the payment of which funds are not available on its presentation. Whenever the bond fund contains ten thousand dollars in excess of the amount necessary to pay all bonds and interest coupons of the district that have matured or that will mature before the time when any part of the next annual assessment to be levied in the district will become delinquent, the board of directors may advertise, in the manner hereinbefore provided for the sale of bonds, for the receipt of sealed proposals for the delivery to the district for redemption of any of its bonds not due. Said advertisement shall state the amount which may be used for the redemption of such bonds. Any such proposals shall be opened by the board in open meeting at the time named in said advertisement, and the offer or offers of such bonds at the lowest rate or rates shall be accepted; *provided*, that no bonds shall be redeemed at more than the par value thereof except by unanimous vote of the directors. In case two or more proposals are equal and there is not sufficient money available to accept them all, the lowest numbered bonds shall have the preference. In case not enough bonds are offered for redemption at prices which the board of directors accepts, the board may invest any money available for redemption of bonds in bonds of the United States or of the State of California and shall hold the bonds so purchased as part of the bond fund until such time as the board may determine that it is for the best interests of the district that such bonds or any of them be sold. In case of the sale of any such bonds, the proceeds of the sale shall be deposited in the bond fund. (Stats. 1919, p. 667.)

*Hewel vs. Hugin*, 3 Cal. App. 248.

### CONSTRUCTION OF WORKS.

#### Bids for construction of works.

SEC. 53. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice, by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals or may proceed to construct the work under their own superintendence; *provided*, that in case of emergency or urgent necessity for the construction, extension or repair of works for irrigation or drainage, the board of directors, by unanimous vote of those present at any regular or special meeting, may award contracts therefor without advertising for bids, but the cost of such work shall not exceed five hundred dollars and such additional amount as shall be equal to five cents for each acre of land in the district. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board. (Stats. 1919, p. 668.)

*Healey vs. Anglo Bank, Ltd.*, 5 Cal. App. 278.

#### Investigations by state engineer.

SEC. 53a. During the construction of any irrigation works to be paid for out of the proceeds of any bond issue which has been certified by the state irrigation district bond commission as provided in the act creating said commission, the state engineer shall have access to all plans, specifications, and records of such construction, and shall from time to time make such investigations and such reports to the board of directors of the district as he shall deem to be in the interest of the public or of the district. (Stats. 1917, p 768.)

#### Payment of claims.

SEC. 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; *provided*, that the board may draw, from time to time, from the construction fund, and deposit in the

county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same and place the same to the credit of said district, and he shall be responsible upon his official bond for the safekeeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

*Perry vs. Otagy Irr. Dist.*, 127 Cal. 565.

Negotiability and validity of warrants:

*Danby vs. Starlight Irr. Dist.* (Ore.), 157 Pac. 1066;

*Interstate Trust Co. vs. Steele* (Colo.), 173 Pac. 873-5.

#### Reports to be forwarded to state engineer.

SEC. 54½. During the construction of any work to be paid for out of the proceeds of the sale of any bonds of any irrigation district within this state, the secretary of the board of directors shall, within one week after each regular meeting of said board, forward to the state engineer copies of all reports made to said board as to the progress of said work and a statement of the amounts paid for the doing of any part of said work. Immediately after the publication of the statement of the financial condition of any irrigation district within this state, required by section fourteen of this act to be made annually, the board of directors of said district shall cause a copy of said statement and a report stating the general condition of any works constructed or acquired by said district and whether or not the plan of irrigation adopted by the district is being successfully carried out and any other matters which the board may deem proper, to be forwarded to the state engineer, who shall examine said statement and report and make to said board such recommendations and comments as he may deem proper. The state engineer may at any time make or cause to be made an examination of the affairs of any irrigation district within this state or call upon the authorities of such district for such information as he may desire and make such report thereon as he may deem advisable. (Stats. 1913, p. 1000.)

#### Improvements to be paid for from construction fund.

SEC. 55. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund; *provided, however*, that when any lands, waters, water rights or other property shall be



acquired by the district by any lease or contract, under the terms of which the consideration or rental shall be payable in such installments that a like amount shall be payable in each year of the life of such lease or contract, then such rental or consideration shall be paid out of the funds derived from the levying of annual assessments, or from the collection of rates, tolls and charges fixed and collected as hereinafter provided for. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair and improvement of such portions of such canal and works as are completed and in use, including salaries of officers and employees, and installments of rental or consideration accruing under any lease or contract as hereinabove in this section mentioned, the board may in lieu (either in part or in whole) of levying assessments as herein provided for, fix rates of toll and charges, for irrigation and other public uses declared by this act, and collect the same from all persons using said canal for irrigation and other purposes. (Stats. 1911, p. 516.)

*Hughson vs. Crane*, 115 Cal. 404.

#### Right of way.

SEC. 56. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, can not agree upon the amount to be paid therefor, or the points or the matter of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

*McPherson vs. Alta Irr. Dist.*, 14 Cal. App. 353;

*MacCammelly vs. Pioneer Irr. Dist.* (Idaho), 105 Pac. 1076;

*City of Nampa vs. Nampa, etc., Dist.* (Idaho), 131 Pac. 8.

#### GOVERNING DIRECTORS.

##### Compensation of officers.

SEC. 57. The directors when sitting as a board or acting under the orders of the board, shall each receive not to exceed four dollars per day and ten cents per mile for each mile actually traveled from his place of residence to the office of the board, and actual and necessary expenses paid while engaged in official business under the order of the

board; *provided*, that in irrigation districts containing five hundred thousand acres or more the directors, in lieu of said per diem, shall each receive a salary of one hundred and fifty dollars per month. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; *provided*, that said board shall, upon the petition of at least fifty freeholders within such district therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder, which may include the salary or per diem to be paid to the directors. Such petition must be presented to the board not less than twenty days nor more than forty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act. (Stats. 1915, p. 1368.)

#### **Directors not to be interested in contracts.**

SEC. 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

### **SPECIAL ASSESSMENTS.**

#### **Election on question of special assessment.**

SEC. 59. The board of directors may at any time call a special election and submit to the qualified electors of the district the question whether a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes of this act or of any act supplementary hereto. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section thirty *d* of this act. The notice must specify the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used, and it may state that said assessment shall be levied in two or three annual installments and specify the amount of the installment to be levied in each year. At the special election the ballots shall contain the words "Assessment—Yes" or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall, at the time of the annual levy hereunder, levy a sum sufficient to raise the amount voted, or, if the notice of election shall have provided for levying said assessment in annual installments, the board of directors shall, at the time of the annual levy in each of the years specified in said notice, levy such assessment as shall raise the amount of the installment provided in said notice to be raised in said year; *provided, however*, that in case of an unexpected emergency by which the flow of water in the canal or other supply is interrupted, the amount of the indebtedness, incurred in the repair of the works of said district, caused by such interruption,

not to exceed in any one year forty thousand dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided. (Stats. 1919, p. 668.)

*Imperial Land Co. vs. Imperial Irr. Dist.*, 26 Cal. App. 529;  
*Imperial Land Co. vs. Imperial Irr. Dist.*, 173 Cal. 660;  
*Imperial Land Co. vs. Imperial Irr. Dist.*, 173 Cal. 668;  
*McDonough vs. Cooper*, 56 Cal. Dec. 529, 177 Pac. 153.

#### Rate of assessments, how ascertained.

SEC. 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum to be raised by the remainder of such aggregate assessed value. Special assessments shall be computed and entered by the secretary and collected as a part of the regular assessment levied hereunder, and, when collected, shall be paid into the district treasury for the purpose or purposes specified in the notices calling the respective elections at which they were voted. (Stats. 1919, p. 669.)

*McDonough vs. Cooper*, 56 Cal. Dec. 529, 177 Pac. 153;  
*Stevens vs. Melville* (Utah), 175 Pac. 602.

### INCURRING INDEBTEDNESS.

#### Power to incur indebtedness restricted.

SEC. 61. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur indebtedness in such sum or sums as shall amount to two thousand dollars, or, if the district shall contain more than four thousand acres, to one-half as many dollars as there are acres of land in the district, and may cause warrants of the district to be issued therefor, bearing interest at not more than seven per centum per annum, said rate to be fixed by the board of directors, and all such warrants must be made payable not later than the first day of January after the first assessment shall be levied in the district issuing such warrants; and provided, further, that nothing contained in this section shall be construed as limiting the right of the board to enter into any contract or lease for any lands, waters, water rights or other property, as in this act provided for, and by such lease or contract to bind the district for the payment of the rental or consideration specified in such lease or contract. (Stats. 1915, p. 1369.)

*Mitchell vs. Patterson*, 120 Cal. 286, 293.



**Warrants not paid to draw interest.**

SEC. 61a. Whenever any warrant of the district payable on demand is presented to the treasurer for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by resolution of the board of directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment, other than warrants issued under the provisions of section sixty-one hereof, when funds of the district are not available to pay the same, the treasurer of the district shall endorse thereon the words "funds not available for payment," with the date of presentation and shall specify the interest that such warrants shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date, be made and there is sufficient money available for such payments, the treasurer shall give notice in some newspaper published in the district, or, if none is published therein, then in some newspaper published in the county in which the district or any portion thereof is situated, or, if none is published in such county, then the treasurer shall post such notice conspicuously in the place in which the board of directors of the district holds its regular meetings, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors, as the case may be, and no further description of the warrants entitled to payment shall be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it, together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication or posting of said notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication or posting of said notice. The treasurer shall enter in the record hereinbefore required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person. (Stats. 1915, p. 1369.)

*Carter vs. Tilghman*, 119 Cal. 104-6.

**Directors may purchase irrigation works.**

SEC. 61b. The board of directors of irrigation districts may acquire, by purchase or condemnation, the irrigation system, canals and works through which lands in such districts have been or may be supplied with water for irrigation<sup>1</sup>, and may exchange bonds of such irrigation

<sup>1</sup>The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

district for such system or canals or works or for any portion thereof, or for any interest therein or for the capital stock of any corporation owning such system or any portion thereof, upon such terms and conditions as the said board of directors may deem best. (Stats. 1917, p. 769.)

Exchange of bonds for property:

*Stowell vs. Rialto Dist.*, 155 Cal. 215;  
*Ham vs. Grapeland Dist.*, 172 Cal. 611;  
*Hooker vs. East Riverside Dist.*, 27 Cal. App. Dec. 623;  
*Rialto Dist. vs. Stowell*, 246 Fed. 294, 297;  
*Baltes vs. Farmers Irr. Dist.*, (Nebr.), 83 N. W. 83;  
*Wyman vs. Searles* (Nebr.), 128 N. W. 801;  
*O'Neil vs. Yellowstone Dist.* (Mont.), 121 Pac. 283;

Validity of contract for exchange:

*Kinkade vs. Witherop* (Wash.), 69 Pac. 399;  
*Board of Directors vs. Peterson* (Ore.), 128 Pac. 837.

**Determination of validity of bonds.**

SEC. 61c. Where the board of directors of an irrigation district have exchanged bonds or have agreed to exchange bonds for property rights in any irrigation system or works or for any interest therein under the provisions of section sixty-one *b* of this act, the court shall, in any proceeding brought under the provisions of the last section, by its decree determine the validity of all bonds issued or to be issued under any contract or contracts for the exchange of bonds for property interests and by its decree shall determine whether the bonds provided for in said contracts, when delivered to the person or corporation entitled thereto under the terms of any such contract, shall constitute valid obligations of said irrigation district as against all persons. (Stats. 1915, p. 1291.)

**GOVERNING THE USE OF WATER.**

**When the volume of water is insufficient.**

SEC. 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

**Full capacity of ditches.**

SEC. 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

SEC. 64. Repealed Stats. 1917, p. 915.

**Right of eminent domain.**

SEC. 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream,

canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

### EXEMPTION FROM TAXATION—CREATION OF FUNDS.

#### Exemption of property from taxation.

SEC. 66. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district shall not be taxed for state and county or municipal purposes.

Constitution of California, Sec. 1, Art. XIII.

#### Funds created.

SEC. 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: bond fund, construction fund, general fund.

*Hughson vs. Crane*, 115 Cal. 404, 414.

#### Unexpended money.

SEC. 67a. Whenever an object for which money has been specifically provided by assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, the same shall in the discretion of the board of directors be transferred to the general fund and thereafter be available for any of the purposes of this act. (Stats. 1917, p. 769.)

### GENERAL PROVISIONS.

#### Action to determine validity of bonds.

SEC. 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a proceeding *in rem*, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the supreme court at any time within thirty days after the rendition of



such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

*Western Union Tel. Co. vs. Modesto Dist.*, 149 Cal. 662-6;  
*Fogg vs. Perris Dist.*, 154 Cal. 209;  
*Haese vs. Heitzig*, 159 Cal. 569;  
*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 660;  
*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 668;  
*Black Canyon Irr. Dist. vs. Fallon (Idaho)*, 122 Pac. 850;  
*Petition of Board of Directors Unit Dist. (Ore.)*, 178 Pac. 186-8.

#### **Assessment payer may bring action.**

SEC. 69. If no such proceedings shall have been brought by the board of directors, then, at any time within thirty days after the levy of any assessment or issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

*Western Union Tel. Co. vs. Modesto Dist.*, 149 Cal. 662-6;  
*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 660;  
*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 668.

#### **Consolidation of actions.**

SEC. 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 660.

#### **Courts must disregard errors, etc.; rules of pleading.**

SEC. 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing, or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 660.

#### **Contests.**

SEC. 72. No contest of anything or matter herein provided shall be made other than within the time and manner herein specified, and in any such action all findings of facts or conclusions of said board of

directors, or of the board of supervisors upon all matters shall be conclusive, unless such action was instituted within six months after such finding or conclusion was made. (Stats. 1915, p. 1370.)

*Imperial Land Co. vs. Imperial Dist.*, 173 Cal. 660.

#### **Penalty for violation of duty.**

SEC. 73. For any willful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment payer of the district.

### **EXCLUSION OF LANDS.**

#### **Boundaries may be changed to exclude lands.**

SEC. 74. The boundaries of any irrigation district now organized or hereafter organized under the provision of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

*Board of Directors vs. Tregea*, 88 Cal. 334-356.

#### **Petition of owners for exclusion of land.**

SEC. 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

*Harelsan vs. South San Joaquin Irr. Dist.*, 20 Cal. App. 324.

#### **Publication of filing of petition; contents of notice.**

SEC. 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in

some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

*Harelsen vs. South San Joaquin Irr. Dist.*, 20 Cal. App. 324.

#### **Hearing of petition; failure to show cause deemed assent.**

SEC. 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

*Harelsen vs. South San Joaquin Irr. Dist.*, 20 Cal. App. 324.

#### **Power of board to exclude land from district.**

SEC. 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interest of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in



the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; *provided*, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom, which can not be irrigated from, or which are not susceptible to, irrigation from a common source or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands in said district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works; *provided*, that no land irrigated by means of water, pumped from an underground source or sources shall be entitled to exclusion from any irrigation district on account of being so irrigated, if it shall be shown that such land is or will be substantially benefited by subirrigation from the works of said district or by drainage works provided or required by law to be provided by said district, but no owner of land in any irrigation district shall be required to pay any assessment, except for the payment of interest and principal due on bonds of the district, on any land in such district which, when the district was organized, was irrigated by means of water pumped from an underground source or sources and has continued each year to be irrigated exclusively by such means. (Stats. 1915, p. 836.)

*Harelsan vs. South San Joaquin Irr. Dist.*, 20 Cal. App. 324;  
*Board of Directors vs. Tregea*, 88 Cal. 334.

#### **Assent of bondholders; release from lien.**

SEC. 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

**Change of boundaries to be recorded; organization not affected.**

SEC. 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

**Office of director of excluded division declared vacant.**

SEC. 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

**Division of district.**

SEC. 82. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

**Rights of guardian, administrator or executor.**

SEC. 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

**Lands excluded not released from liabilities for indebtedness.**

SEC. 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; *provided*, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

**INCLUSION OF LANDS.****Boundaries may be changed to include lands.**

SEC. 85. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

**Procedure for inclusion of lands.**

SEC. 86. The holder or holders, of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by



the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

#### **Notice of filing of petition.**

SEC. 87. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

#### **Hearing of petition.**

SEC. 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

#### **Condition precedent.**

SEC. 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such

lands been included in such district at the time the same was originally formed.

*Nile Irr. Dist. vs. G. S. Co.*, 248 Fed. 861.

### Change in boundaries.

SEC. 90. If the board of directors deem it for the best interest of the district that the boundaries of said district be changed and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary; *provided, however*, that any public land of the United States of America adjoining the boundaries of any irrigation district may be included within the boundaries of any such irrigation district by order or resolution of the board of directors of such district without any petition being filed asking for such inclusion; *and provided, further*, that when additional land is included within any irrigation district and the board of directors of such district finds either that such inclusion without condition would work an injury to the land already in the district either by an impairment of water right or by requiring a greater expense for furnishing water to the lands proposed to be included, the board may prescribe conditions upon such inclusion of land, either by providing for priority of right to water or for the payment of an additional annual charge or such other conditions as may to the board seem just. If such inclusion is upon petition of property owners all such property owners must sign and acknowledge an agreement with the district, specifying such conditions and describing the land so to be included. Such agreement must be recorded in the office of the county recorder of the county in which such lands are situated, together with a certified copy of the order including such lands, and thereupon such lands shall become a part of such irrigation district subject to such conditions. (Stats. 1915, p. 1370.)

### Resolution describing boundaries.

SEC. 91. If any person interested in said district or the proposed change of its boundaries shall show cause as aforesaid why such boundaries should not be changed and shall not withdraw the same or if the board of directors deem it not for the best interests of the district that the boundaries thereof be changed so as to include therein the lands mentioned in the petition or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the land which will be included within the boundaries of the district when changed, but before calling the election provided for in the next section, the board may require an undertaking, with sufficient sureties, from the petitioners that they will pay all of the cost of holding such election for the inclusion of such lands in case such inclusion should be denied. (Stats. 1915, p. 1371.)

**Notice of election; ballots.**

SEC. 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

**Majority vote to decide election.**

SEC. 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

**Order of board to be recorded.**

SEC. 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

**Recording petition in minutes.**

SEC. 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

**Rights of guardians, executors and administrators.**

SEC. 96. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as



such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

#### **Redivision of district.**

SEC. 97. In case of the inclusion of any land within any district by proceedings under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district into three or five divisions, as the case may require, as nearly equal the size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall thereafter be elected by each division. For the purposes of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

### **REDUCTION OF BONDED INDEBTEDNESS.**

#### **Election on question of reducing bonded indebtedness.**

SEC. 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

#### **Notice of election; ballots.**

SEC. 99. Notice of the said election shall be given in the same manner as provided in section thirty of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling places, as established, by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

#### **Assent of bondholders.**

SEC. 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of

bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section seventy-nine of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

### LEASE OF WATER.

#### Authority of board to lease.

SEC. 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

#### Manner of procedure.

SEC. 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

#### Opening proposals.

SEC. 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

#### Rentals.

SEC. 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-annually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

**Length of lease; forfeiture.**

SEC. 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

**Bond of lessee.**

SEC. 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

**DESTRUCTION OF UNSOLD BONDS.****Election on question of destroying unsold bonds.**

SEC. 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized, or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

**Notice of election; ballots.**

SEC. 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section thirty of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

**Two-thirds majority required.**

SEC. 108. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount



of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

### SAVING CLAUSES.

#### Existing districts and existing rights not affected.

SEC. 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

*Tulare Irr. Dist. vs. Collins*, 154 Cal. 440-2;  
*Board of Supervisors vs. Thompson*, 122 Fed. 860-2.

#### Effect on prior acts.

SEC. 110. Nothing in this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act, an act entitled an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes, approved March seventh, eighteen hundred and eighty-seven, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

#### Time of taking effect.

SEC. 111. This act shall take effect from and after its passage and approval.

#### Title of act.

SEC. 112. This act may be referred to in any action, proceeding, or legislative enactment as "the California irrigation district act." (Stats. 1919, p. 669.)

#### Constitutionality:

##### Act is constitutional.

*Turlock Irrigation District vs. Williams*, 76 Cal. 360;  
*Board of Directors vs. Tregoe*, 88 Cal. 334;  
*In re Madera Irrigation District*, 92 Cal. 296;  
*In re Central Irrigation District*, 117 Cal. 382;  
*Matter of Bonds of South San Joaquin Irrigation District*, 161 Cal. 345;  
*Fallbrook Irrigation District vs. Bradley*, 164 U. S. 112, 41 L. Ed. 369.

#### Public corporation:

##### Irrigation district is public corporation.

*Turlock Irrigation District vs. Williams*, 76 Cal. 360;  
*Central Irrigation District vs. De Lappe*, 79 Cal. 351;  
*Crall vs. Poso Irrigation District*, 87 Cal. 140;  
*In re Madera Irrigation District*, 92 Cal. 296;  
*People vs. Selma Irrigation District*, 98 Cal. 206;  
*People vs. Turnbull*, 93 Cal. 630;  
*Tulare Irrigation District vs. Collins*, 154 Cal. 440.

Validity of organization:

May not be questioned by private party.

*Miller vs. Perris Irrigation District*, 85 Fed. 693.

Can not be attacked collaterally.

*Quint vs. Hoffman*, 103 Cal. 506;

*Knowles vs. New Sweden Irrigation District* (Idaho), 101 Pac. 81;

*Quinton vs. Equitable Investment Company*, 196 Fed. 314.

District may not plead the illegality of its own organization to defeat payment of bonds.

*Herring vs. Modesto Irrigation District*, 95 Fed. 705;

*Tulare Irrigation District vs. Shepard*, 185 U. S. 1.

Construction of act:

Act should be so construed as to effectuate its purpose to facilitate the economic and permanent reclamation of arid lands.

*Jennison vs. Redfield*, 149 Cal. 500;

*Nampa and Meridian Irrigation District vs. Petrie* (Idaho), 153 Pac. 425;

*Colburn vs. Wilson et al.* (Idaho), 132 Pac. 579.

## SUPPLEMENTARY LEGISLATION.

NOTE.—The following acts supplement expressly the California Irrigation District Act. Supplementary acts relating generally to irrigation districts are listed under Part VI, Miscellaneous, pages 168–176 hereof.

### PAYMENT OF ASSESSMENTS IN TWO INSTALLMENTS.

*An act to permit boards of directors or irrigation districts organized or existing under and by virtue of an act of the legislature, entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897; to provide for the payment in two installments of the assessments levied under and in accordance with the provisions of said act.*

(Approved March 19, 1909, Stats. 1909, p. 415.)

#### Payment of assessments in two installments.

SECTION 1. It shall be lawful for boards of directors of irrigation districts, organized or existing under or by virtue of an act of the legislature, entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts and also, to provide for the distribution of water for irrigation purposes"; approved March 31, 1897; to provide for the payment of assessments levied in accordance with the provision of said act, in two installments.

#### Resolution by directors.

SEC. 2. The directors of any such irrigation district may, whenever they shall so determine, and must upon a petition in writing, signed by a majority of the assessment payers within such district, pass a resolution providing that thereafter all assessments, except special assessments provided for by section thirty-four of said act of 1897, shall be

payable in two installments, and in said resolution shall specify when such payments may be made.

**Time of passing or rescinding resolution.**

SEC. 3. Such resolution must be passed before the first Monday in August, and can not be rescinded to take effect during any year after the first Monday of March in that year.

**When assessments become delinquent.**

SEC. 4. Whenever the board of directors of such irrigation district shall have so determined, thereafter one-half of the assessments levied within such district shall become delinquent at six o'clock p.m. on the last Monday of December, and one-half thereof shall become delinquent at six p.m. on the last Monday of June next thereafter; *provided*, that where an assessment has been levied as provided in section 34 of said act the whole of such assessment shall become delinquent on the last Monday in December.

**Effect of act.**

SEC. 5. When provision is made, as herein provided, for the payment of said assessments in two installments, the publication of the delinquent list provided for in said act, shall not be made before the first day of July, but must be made on or before the first day of August, and except as otherwise herein provided all of the provisions of said irrigation act or acts not inconsistent with this act relative to the assessment, payment and collection of assessments, notice of assessments, publication of delinquent list, and sale for delinquent assessment, and all other provisions relative to such assessments shall be applicable, and the only effect of this act shall be to permit the payment of such assessments in two installments, and to postpone the notice of sale and sale provided for in said act until after the first day of July, and when sale is made at the time herein specified it shall have the same effect as though made at the time and in the manner specified in said act of 1897.

**REFUNDING BONDED INDEBTEDNESS.**

*An act to authorize irrigation districts to refund outstanding bonded indebtedness.*<sup>1</sup>

(Approved May 25, 1919, Stats. 1919, p. 1004.)

**Election on question of refunding indebtedness.**

SECTION 1. The board of directors of any irrigation district organized or existing under or subject to the provisions of the California irrigation district act approved March 31, 1897, as amended, providing for the organization and government of irrigation districts, that has an outstanding indebtedness evidenced by bonds lawfully issued prior

<sup>1</sup>See also "An act to provide for the issue and sale or exchange of funding bonds of irrigation districts organized under and in pursuance of an act of the legislature of the State of California entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes,' approved March 7, 1887, to provide for the payment of such bonds, and for proceedings to test the validity of the same," approved April 1, 1897, Stats. 1897, p. 394; amended Stats. 1901, p. 514.



to January 1, 1913, may, by a majority vote of the members of the board, submit to the electors of the irrigation district at any election the proposition of the issuance of new bonds for the purpose of refunding the bonds outstanding, as the same become due. Such election shall be held, and the vote thereon shall be the same as provided by the California irrigation district act for the issuance of other irrigation district bonds; *provided*, no petition therefor need be circulated or signed; *and provided, further*, that a majority of the votes of those voting on said proposition shall be sufficient to carry the same. Such bonds shall bear interest at a rate the same as or lower than the bonds to be refunded and no refunding bond shall have a later date of maturity than twenty years from the date of its issue.

#### Form of refunding bonds.

SEC. 2. The refunding bonds shall be issued in substantially the manner and in the form required by law for the issuance of other bonds of the district. These bonds may be sold from time to time in the same manner as other bonds of the district, or, if the directors of the district and the holders of any of the bonds reaching maturity so elect, they may be exchanged in payment of the bonds so maturing as such bonds mature.

#### Assessment to pay interest and principal.

SEC. 3. The board of directors shall cause to be assessed and levied each year upon the assessable property in the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on or any principal of such refunding bonds in the same manner as is provided in the California irrigation district act in the case of other bonds.

### DEVELOPMENT OF ELECTRICAL POWER.

*An act to provide for the development of electrical power by irrigation districts.*

(Approved May 21, 1919, Stats. 1919, p. 778.)

#### Irrigation district may develop power.

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may provide for the construction, operation, leasing and control of plants for the generation, distribution, sale, and lease of electrical energy, including sale to municipalities, corporations, public utility districts, or individuals, of electrical power so generated; and said district, subject however to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; *provided, however*, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is

proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated; and the officers, agents, and employees of such districts shall have the same powers, duties and liabilities respecting such power and the construction, repair, maintenance, management, and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California irrigation district act shall be so construed, applied and enforced as to apply to such power as well as such irrigation.

#### **Powers of board and officers.**

SEC. 2. The board of directors of any irrigation district and its officers, agents, and employees, shall do all necessary and proper acts for the construction, repair, maintenance, and management of such electrical power works for such purposes.

#### **Issue of bonds.**

SEC. 3. In case funds are not otherwise available the irrigation district may issue bonds for such purpose and all of the provisions of the California irrigation district act, relating to the issuance of bonds for other purposes in so far as the same are applicable to said bonds shall apply.

#### **Repeal.**

SEC. 4. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

### **DISSOLUTION OF DISTRICT.**

*An act to provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property.*

(Approved February 10, 1903, Stats. 1903, p. 3. Amended 1909, p. 139; 1911, extra session, p. 118; 1913, p. 39; 1915, p. 859.)

(An alternative method for the dissolution of a district, relating generally to all districts, was provided by Stats. 1919, p. 751.)

### **CO-OPERATION WITH DISTRICTS IN ADJOINING STATES.**

*An act to provide for co-operation in acquisition, construction and management of irrigation and drainage works between irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for organization and government of irrigation districts and to provide for the acquisition thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and contiguous or adjoining districts in or organized under the laws of other states.*

(Approved May 23, 1917, Stats. 1917, p. 905.)

**CO-OPERATION WITH UNITED STATES GOVERNMENT.**

*An act to authorize irrigation districts, to co-operate and contract with the United States under the provisions of the federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract.*

(Approved May 5, 1917, Stats. 1917, p. 243.)

**RELEASE OF CLAIMS OF BONDS SURRENDERED FOR CANCELLATION.**

*An act to provide for the release of all claims and liens arising from irrigation district bonds and interest coupons voluntarily surrendered for cancellation, and to provide for the establishment of record of such release.*

(Approved May 1, 1911, Stats. 1911, p. 1460.)

**VALIDATION OF BONDS ISSUED.**

*An act to legalize bonds issued and to be issued and sold by irrigation districts.*

(Approved May 26, 1915, Stats. 1915, p. 837.)

**SECTION 1.** In all cases subsequent to January 1, 1910, where the board of directors of any irrigation district in the State of California has passed a resolution calling an election for the purpose of submitting to the qualified electors of such irrigation district the question of whether or not bonds of such district should be issued for any purpose and where at such election four-fifths of all the qualified electors voting at such election shall have voted in favor of issuing such bonds and such board of directors shall have passed a resolution or order providing for the issuing of such bonds, the power of such irrigation district to issue such bonds and all the acts and proceedings of such irrigation district leading up to and including the issuance and sale or the proposed issuance and sale of such bonds are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and all such bonds sold either before or after the passage of this act are hereby legalized and declared to be legal and valid obligations of and against such irrigation district so issuing and selling the same.



## II. CALIFORNIA IRRIGATION ACT.

*An act to be known as "the California irrigation act" providing for co-operation between the State of California and the United States, and independent proceedings, in the storage and diversion of water, the distribution thereof for irrigation and other beneficial uses and purposes, the generation and manufacture of electric power; creating an irrigation board, and providing for the formation of irrigation districts and conservation districts, and the conversion of irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized for the purpose of promoting irrigation, reclamation and drainage, into irrigation districts under this act; and empowering said irrigation board to make and approve contracts and agreements, to construct reservoirs and other works, to divert, distribute and sell water and lease and sell water rights, and to generate, lease and sell electric power, to apportion to the constituent units of conservation districts the water and electric power to be produced and generated by conservation district works, to levy assessments, and issue bonds of irrigation districts and conservation districts; providing for the management, control and supervision of such irrigation districts and conservation districts and of the works constructed pursuant to this act; directing the state department of engineering relative to such works; and generally providing a policy relating to the storage, diversion and use of water and the manufacture or generation of electric power, and adopting a plan for providing revenues therefor; and repealing the California irrigation act approved June 4, 1915, and chapter 646 of the statutes of 1917, approved May 28, 1917, amendatory thereof.*

(Approved May 16, 1919, Stats. 1919, p. 671.)

### Irrigation board created.

SECTION 1. There is created a board to be known as the "irrigation board," which shall consist of three members, and shall constitute a body corporate and politic for the purpose of exercising the powers and performing the acts herein mentioned, and which shall have the power to sue and to be sued. Within thirty days of the date upon which this act takes effect the governor shall appoint the members of said board and the members so appointed shall serve for four years and until their successors have been appointed; *provided*, that the members of said board heretofore appointed under the California irrigation act approved June 4, 1915, shall serve out the terms for which they were appointed. Their successors shall be appointed, and all vacancies shall be filled by appointment in like manner. The office of the irrigation board shall be at the city of Sacramento; a branch office may be maintained in the city and county of San Francisco.

The irrigation board shall elect one of its members as president, and shall employ a secretary and such attorneys, engineers, superintendents, inspectors and other assistants as it may require, and shall fix the terms of their employment and compensation. Each member of the irrigation board shall receive as compensation the sum of ten dollars

The California Irrigation Act, (statutes 1919-p671) was declared unconstitutional by the Supreme Court in the case of Mordecia vs. Board of Supervisors of Mendocino County. Decided Feb. 1920.

per day for each day employed by such member in the performance of duties under this act, and shall receive actual traveling expenses while engaged in such duties. All such salaries, compensation and expenses shall be payable out of any funds under the control of the irrigation board applicable to such payments. Where a conservation district has been formed, as hereinafter provided, the irrigation board shall apportion and certify to each district therein or component unit thereof, and to each private corporation, mutual ditch company and mutual water company admitted to the benefits of such conservation district, an amount for its share of the general cost and expense of the maintenance and operation of the irrigation board in connection with such district, or component unit, or private corporation or mutual ditch company, or mutual water company, for the ensuing or previous year, and also such additional amounts as are necessary for the purpose of defraying the cost of all administrative, engineering and other legal expenses necessary for laying out the plans therefor, and such amounts shall be paid by each of such districts, or component units, to the state treasurer, and shall be deposited in a fund to be held and paid out for the account of said conservation district in the same manner as hereinafter provided for the funds of said conservation district.

#### **Interest of state in water storage paramount.**

SEC. 2. It is hereby declared that the State of California has a paramount interest in the storage and diversion of water, the irrigation of land and the production of electric power; that such storage, irrigation and production of electric power will make productive vast quantities of land that are comparatively unproductive and will increase production, property valuations and population in the state, make profitable the cultivation of small tracts and promote subdivision of larger tracts, and will promote the welfare and prosperity of all the people. The powers herein conferred upon the irrigation board are hereby declared to be police and regulatory powers and are necessary to the accomplishment of a purpose that is indispensable to the public interests.

#### **Powers of irrigation board.**

SEC. 3. The irrigation board shall have power to make, or cause to be made, examinations and surveys, to make or adopt plans, and estimate, or cause to be estimated, the cost of all projects for the storage or diversion of water within the State of California, the distribution of said water, and the generation of electric power in connection with such storage, and the sale and distribution of such power, and to make and enter into contracts for the construction and maintenance of works for such projects and the supervision and administration thereof. The irrigation board shall also have power to confer and make agreements with any authorized department, board or officer of the United States government, or with any irrigation district, reclamation district, or drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, or with any water, power, irrigation or other company, or corporation, or association, or person, or persons, with reference to such projects and concerning



examinations, surveys, works and plans in connection therewith. Any plan finally approved by the irrigation board (and when in any case the approval of any authorized department, board or officer of the United States government is necessary, it is also approved by such authorized department, board or officer) shall be the official plan approved by the State of California and authorized by it for the project involved therein, but such plan may be modified or changed from time to time thereafter in like manner as originally adopted or approved.

#### **Surveys by state engineering department.**

SEC. 4. The state department of engineering, or such engineer or engineers as may be appointed by the irrigation board, shall make such surveys, examinations, reports, plans and estimates as may be required by the board, either with or without the co-operation of the United States or any department thereof, whenever said board has under its control money available with which to pay the expenses in connection therewith. All such work and all supervision of construction shall be performed under such contracts and regulations as may be made or approved by the irrigation board or agreed upon between said board and the United States.

#### **Petition to organize district.**

SEC. 5. Whenever the holders of title, or evidence of title, or of possessory rights to lands entered under the laws of the United States, or of the State of California, representing one-half or more of any body of land susceptible of irrigation (excepting lands embraced within the limits of incorporated cities or towns) desire to form an irrigation district under the provisions of this act, for the irrigation of said land, they may present to the irrigation board a petition signed by them, or their authorized agents, which petition shall set forth generally the boundaries of the proposed district, a description of the lands by legal subdivisions or other boundaries, the county in which they are situated, the number of acres in the proposed district, and in each tract with the names (if known) of the owners thereof, and designating as unsold any lands not reduced to private ownership; and also shall state generally the source or sources from which said lands are proposed to be irrigated, and the proposed name of the district, and shall pray that the territory within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments; and guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature, and of the fact of residence of any petitioner and any fact going to the qualifications of any petitioner under this act.

No defect in the contents of the petition or in the title to or form of the notice or signatures, or the lack of signatures shall vitiate any



proceedings thereon; *provided*, such petition or petitions have a sufficient number of qualified signatures attached thereto.

The certificate of the county assessor of the county wherein the lands described in the petition are situated that the titles and possessory rights of the respective signers thereto are as appear on the county assessment roll or rolls last equalized at the time of filing the petition, or of the register of the United States land office of the district in which said lands are situated, or of the surveyor general of the State of California, shall be sufficient evidence of the title or possessory right of any signer hereto, and where as to any tract the assessor is unable to make such certificate for the reason that it is assessed to an unknown owner or the assessment roll does not purport to give the true name or gives the names of a portion only of the owners, the actual owners of such property shall be considered the owners for all the purposes of this act and owners of undivided interests may sign for such interest.

The petition must be verified by the affidavit of one of the petitioners, and shall be filed with the irrigation board. Upon the receipt of such petition the irrigation board, or such person as said board may authorize to act in such cases, shall designate a time and place for the hearing of said petition, which date shall be not less than twenty days nor more than thirty days from the date of the filing of the petition with the board. The secretary of the irrigation board shall cause notice of said hearing to be published at least once a week for two successive weeks, prior to the time of said hearing, in a newspaper of general circulation printed and published in each of the counties in which any of the lands intended to be embraced within such proposed irrigation district are situated. Such notice shall designate the time and place when and where said petition will be heard, and shall set forth the exterior boundaries of said proposed district.

At the time and place designated in said notice, any person owning land within the said proposed irrigation district, may appear and present written objections to the creation of such district. The irrigation board shall hear and receive such evidence as may be offered in support of the petition and in support of said written objections. The irrigation board may continue said hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had. Upon the final hearing of said matter, the irrigation board shall make an order approving said petition as originally presented, or as modified by such order, excluding from the district such lands as in the judgment of the irrigation board should be excluded, and upon the filing of such order with the irrigation board such irrigation district shall be deemed to be created. Upon application by any person whose lands are susceptible of irrigation from any of the proposed sources, the irrigation board, in its discretion, may order such lands included within said proposed district. The order shall describe the exterior boundaries of the district, as determined by the irrigation board, and also the exterior boundaries of any lands excluded therefrom, and shall be indorsed upon or attached to the petition, and be signed by the president and attested by the secretary of the irrigation board. A copy of the order creating such irrigation district, certified by such secretary, shall be filed in

the office of the secretary of state, and a similarly certified copy of such order, together with a map showing the exterior boundaries of the district, and indicating the lands excluded therefrom, shall be filed in the office of the county recorder of each of the counties in which any of the lands within the said district are situated, and a properly certified copy of such order, together with the maps attached thereto, shall be received in all of the courts of this state as prima facie evidence of the organization of such district and of the boundaries thereof. Before the irrigation board makes such order, it may require that the project and proposed works be approved by the state engineer, or by such engineer or engineers as shall be designated by the irrigation board.

Each irrigation district created under the provisions of this act shall have a board of directors composed of owners of land within the district, elected by the owners of land in such district in the manner provided for the election of trustees of reclamation districts in section three thousand four hundred ninety-one of the Political Code of the State of California, except that such elections shall be called by and returns thereof made to the board of supervisors of the county in which the greater portion of the lands of the district are situated. Each such district shall have a board consisting of five directors; *provided*, that if so requested in the petition for the formation of said district, the irrigation board may order that there shall be only three directors. After the approval of the petition and the election of directors for the district, the directors shall adopt rules, not inconsistent with the laws of the state, for the government and control of the affairs of the district, which rules may be amended at any time by said board of directors.

The board of directors of any irrigation district created under this act may commence a proceeding in the superior court of any county, wherein a portion of the district is situated, to determine the legality of the existence of said district. The complaint in said proceeding shall describe the district by name and the exterior boundaries thereof, and shall contain a prayer that such district be adjudged a legal irrigation district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four successive weeks in a newspaper of general circulation published in each county where any part of such district is situated. Within thirty days after the last publication of said summons, any person who may be interested may appear and answer said complaint, in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed, the court must render judgment as prayed for in the complaint. If any answer shall be filed within said period, the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has, for five years prior to the commencement of such proceeding, been performing its functions as an irrigation district under this act in good faith. The proceeding under this section is hereby declared to be a proceeding *in rem*, and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

**Converting other districts into districts under act.**

SEC. 6. Any irrigation district formed under the provisions of any other law or statute of this state, and any reclamation district or drainage district (excluding from any such district the area embraced within the limits of any incorporated city or town) susceptible of irrigation from any project adopted or approved by the irrigation board, may become an irrigation district under the provisions of this act upon presenting to the irrigation board a consent thereto signed by the holders of title, or evidence of title, of more than half of the lands embraced in said district (excepting lands within incorporated cities or towns). Upon the filing of such consent, the irrigation board shall fix a date for a hearing of the matter involved in such consent. The secretary of the irrigation board shall publish a notice of such hearing once a week for four successive weeks preceding the date fixed therefor in a newspaper of general circulation published in each of the counties in which any portion of said district is situated. At the time and place designated in said notice the irrigation board shall hear and receive such evidence as may be offered in support of the proposal to convert such district into an irrigation district under the provisions of this act and in support of any written objection thereto filed with the irrigation board. The irrigation board may continue said hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had. Upon the final hearing of said matter, the irrigation board shall make its order, providing that said district (excluding therefrom the territory embraced in incorporated cities or towns) shall thereafter be an irrigation district subject to all of the provisions of this act, or, in its discretion, said irrigation board may decline to make such order. If the irrigation board shall make an order converting such district into an irrigation district, all of the lands therein (except lands lying within the boundaries of incorporated cities or towns), shall become, and shall thereafter be, subject to all of the provisions of this act.

**Powers of board of directors.**

SEC. 6a. The board of directors of an irrigation district created under this act shall have power to elect one of its members president thereof; and, subject to the approval of the irrigation board, to employ engineers and others to survey, plan, locate and estimate the cost of the works necessary for the improvement of the lands of the district by irrigation, reclamation and drainage and thereafter subject to the approval of the irrigation board, to modify or change such original plan or plans, or adopt new supplemental or additional plan or plans; to acquire by purchase, condemnation or other legal means, necessary property and rights of way, and the right to take material for the construction of all necessary works, including dams, canals, drains, sluices, bulkheads, water gates, embankments, levees and pumping plants, and to construct, maintain and keep in repair all works requisite and necessary to that end, and to do all other acts and things necessary or required for the irrigation, reclamation and drainage of the lands



embraced in the district, and to carry out the purposes of this act. All of the acts and proceedings of such board of directors, however, shall be recorded in the minutes of said board, and copies thereof, certified by the secretary of said board as recorded, shall, within ten days after the passage or adoption of the same, be filed with the secretary of the irrigation board, and the irrigation board, within twenty days after such filing may, by order filed with its secretary, reject and nullify the action of the board of directors of such irrigation district, and upon the filing of a certified copy of such order of rejection or nullification with the secretary of such irrigation district, the said order of said irrigation district board shall be invalid and unenforceable for any purpose; but if such action of such irrigation district board shall not be so rejected or nullified within the period above provided, the same shall be and remain in full force and effect. The irrigation board may confirm and ratify any action of said irrigation district board at any time, and upon such confirmation and ratification such act or order of said irrigation district board shall be valid and effective for all purposes. The several members of the board of directors shall each be entitled to receive for actual and necessary services performed and for expenses incurred by them, respectively, for and in the interest of the district, such compensation as the irrigation board may determine to be just and reasonable, which shall constitute an indebtedness of the district, to be paid in the same manner and out of the same fund as other debts of the district; *provided*, that no warrant or order drawn for such purpose shall be valid until approved by the irrigation board.

#### Conservation districts.

SEC. 6b. The irrigation board shall have power to consolidate into single districts in the manner and for the purposes provided in this act, irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, which consolidated districts shall be known, and are herein referred to, as conservation districts; and, the purpose of the formation of such districts being primarily to provide for and promote the irrigation of the lands therein and in connection therewith and incidental thereto the reclamation and drainage of such lands, the legislature hereby expressly declares that every such conservation district, formed as herein provided, is and shall be an irrigation district within the meaning of section thirteen of article eleven of the constitution of the State of California, and within the meaning of every other provision of said constitution relating to irrigation districts. Such conservation districts shall be composed of two or more units all or any of which units may be irrigation districts, formed under the provisions of this or any other act or statute of this state, reclamation districts, drainage districts, or other political districts of the state organized to promote irrigation, reclamation or drainage, now or hereafter to be formed. The territory embraced within such units need not be contiguous in order to be embraced within the same conservation district, provided all or a portion of the territory embraced within said respective units is susceptible of irrigation from the works proposed to be constructed by said conservation district. Any private corporation

engaged in the distribution of water to the public, for irrigation or other beneficial uses, or in the generation of hydroelectric power for sale to the public, and any mutual ditch company or mutual water company organized for the purpose of distributing water to the members or stockholders thereof, which private corporation, mutual ditch company or mutual water company is receiving or entitled to receive water from the same stream or streams for the storage or diversion of whose waters it is proposed to construct the works of said conservation district, shall have the right, upon payment of its proportion of the cost of constructing, operating and maintaining such works, to share in all of the benefits resulting from such construction, operation and maintenance, including its proportionate share of the water to be conserved thereby and the power to be generated and produced in connection therewith; *provided*, that nothing herein contained shall be deemed to confer upon said irrigation board, or upon any conservation district formed under the provisions of this act, the right to impair, or deprive any person, firm or corporation of any vested right in or to the waters of any stream or streams proposed to be stored or diverted by said conservation district, without due process of law.

Upon presentation to it of a petition signed by the respective governing boards of two or more of said units praying for the formation of a conservation district, the irrigation board shall fix a time and place for the hearing of such petition. The secretary of the irrigation board shall cause notice of said hearing to be given by publication once a week for four successive weeks in a newspaper of general circulation published in each county wherein any part of said petitioning districts are situated, and also by mailing a written notice of such hearing to the governing boards of such other districts or political subdivisions of the state and to such private corporations, mutual ditch companies and mutual water companies as may be designated by the irrigation board. At the time fixed by the irrigation board for such hearing, or at such other time to which the hearing may be adjourned, the irrigation board shall hear and receive evidence in support of any objections which may be filed in opposition thereto, and shall also receive applications from other districts to become a part of such conservation district and from private corporations, mutual ditch companies or mutual water companies to participate in the benefits of such conservation district. If there shall be presented at such hearing a written objection or objections signed by the owners of more than one-half of the lands in any such unit district the signing of such petition by the governing board of such unit district shall be deemed to be nullified and the irrigation board shall have no power to include such unit district within the proposed conservation district.

The irrigation board shall include as a part of such conservation district the territory embraced within any district unit applying to be made part of the conservation district, which applying district shall be lawfully receiving or entitled to receive water from the same stream or streams whose waters are proposed to be stored or diverted by such conservation district, and shall admit to beneficial participation in said conservation district such private corporations, mutual ditch companies or mutual water companies likewise lawfully receiving or entitled to

receive water and applying to the irrigation board to be admitted to such participation. The application of any unit district or private corporation, mutual ditch company or mutual water company, not so lawfully receiving or entitled to receive water, to be included as a part of said conservation district or to be permitted to share in the benefits thereof, may be approved or rejected by the irrigation board in its discretion. Upon the final hearing of said matter, the irrigation board shall make an order approving said petition, as originally presented, or as modified by such order. Such order shall describe said conservation district by exterior boundaries when the lands therein lie in one body, or by naming the unit district embraced therein when said lands do not lie in one body, and shall also designate the private corporations, mutual ditch companies or mutual water companies, entitled to participate in the benefits of the works proposed to be constructed by said conservation district. Upon the filing of such order with the irrigation board such conservation district shall be deemed to be created. A certified copy of the order creating such conservation district shall be filed in the office of the secretary of state, and a certified copy thereof, together with a map showing the boundaries of the district, shall be filed in the office of the county recorder of each of the counties in which any of the lands within the said district are situated. A properly certified copy of such order, together with the map attached thereto, shall be received in all the courts of this state as prima facie evidence of the organization of such district in compliance with the provisions of this act, and of the boundaries thereof.

After the formation of a conservation district as herein provided, any irrigation district, reclamation district, drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, theretofore existing and which was entitled to become a part of and unit in such conservation district at the time of its formation, and any such district or political subdivision of the state thereafter formed, any portion of the lands in which are receiving or entitled to receive water from the same stream or streams for the storage or diversion of whose waters said conservation district was formed, may, at any time prior to the making by the irrigation board of the order approving the apportionment as provided in section ten of this act, but not thereafter, file with the irrigation board a petition to be made a part of and unit in such conservation district. And any private corporation, mutual ditch company or mutual water company existing at the time of the formation of such conservation district, and at that time entitled to be admitted to participation in the benefits resulting from the construction of the works of such conservation district and any such private corporation, mutual water company or mutual ditch company thereafter organized and receiving or entitled to receive water from such stream or streams, may, at any time prior to the making by the irrigation board of the order approving the apportionment as provided in section ten of this act, but not thereafter, file with the irrigation board a petition to be admitted to such participation. Upon the filing of any such petition, within the time hereinbefore limited, the irrigation board shall fix a time and place for the hearing thereof and give such notice of said hearing and cause such proceedings to be had and taken at



such hearing and such order to be made and filed, and certified copies of such order to be filed, as in the case of a hearing upon a petition, for the original formation of a conservation district, and the right of such petitioning district or political subdivision to become a part of and unit in such conservation district or of such private corporation, mutual water company or mutual ditch company to be admitted to participation in the benefits resulting from the construction of the works thereof, shall be determined in the same manner as if such district or political subdivision or private corporation or mutual water company or mutual ditch company had presented its petition or application at the hearing of the petition for the original formation of such conservation district.

The irrigation board, or the governing body of any irrigation district, reclamation district, drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, constituting a unit of said conservation district, or any private corporation, or mutual water company or mutual ditch company admitted to participation in the benefits of such conservation district, may commence a proceeding in the superior court of any county wherein a portion of said conservation district is situated to determine the legality of the existence of said conservation district. The complaint in said proceeding shall describe the district by name, and the exterior boundaries thereof, when the lands therein lie in one body, or by naming the unit districts embraced therein when said lands do not lie in one body, and shall contain a prayer that such district be adjudged a legal conservation district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four successive weeks in a newspaper of general circulation published in each county wherein any part of such district is situated. Within thirty days after the last publication of said summons any person who may be interested may appear and answer said complaint in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed the court must render judgment as prayed for in the complaint. If any answer shall be filed within said period the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has, for five years prior to the commencement of such proceeding, been performing its functions as a conservation district in good faith. The proceeding under this section is hereby declared to be a proceeding *in rem* and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

#### **When works benefit overflowed lands.**

SEC. 7. When any of the works constructed under the provisions of this act serve the purpose of drainage, flood control or reclamation of swamp and overflowed lands within an irrigation or conservation district formed under the provisions of this act, the irrigation board may estimate the proportion of the cost of said construction, which may be properly charged to the lands benefited by such drainage, flood control or reclamation, and assessments may be levied in the manner herein provided upon the lands so benefited for the purpose of paying such proportion of said cost of construction, together with a reasonable portion of the expenses of maintenance and repair of such works.

**Rules and regulations.**

SEC. 8. The irrigation board may make and enforce any and all rules and regulations that in its opinion will promote the objects of this act, and may perform any act and exercise any power necessary to the accomplishment of the purposes herein expressed and full power is hereby conferred in the premises whether or not such powers are herein specially mentioned, and may sue and be sued in the same manner and with the same effect as a municipal corporation.

**Member may conduct hearing.**

SEC. 9. For the purpose of performing any duty under this act the irrigation board may appoint one of its members to conduct any hearing or investigation. Such member shall make a written report of his proceedings and shall state the evidence introduced at any hearing and his conclusions thereon. Upon such report, or upon such further inquiry as the irrigation board shall deem proper, the irrigation board may pass upon and decide any question under consideration at said hearing or investigation. The decisions of the irrigation board shall be final except as to questions, the determination of which are vested in the courts by this act or by the constitution of this state or by the constitution of the United States.

**Apportionment of water.**

SEC. 10. Prior to making any assessment, to provide funds for the construction or purchase of any project for the construction or purchase of which any conservation district shall have been formed, there shall be apportioned as hereinafter provided, to each constituent district or unit under such project the proportion to which it is entitled of all water stored or to be stored or diverted or to be diverted by such project for the irrigation of such conservation district, and of all power to be developed in connection therewith, which proportion of such water and power shall be forever applied to the purposes of said constituent district; *provided*, that any water or power that may be so apportioned and for which any constituent district or unit has not, to the full extent thereof, a beneficial use, may be leased by such district or unit, with the consent of the irrigation board, to any other territory within or without the said conservation district; the other districts or units, embraced in said conservation district to be entitled, however, to the first right to so lease such surplus water or power. The apportionment of water and power under this section shall be made by a special board of apportionment and confirmed by the irrigation board. The members of such special board of apportionment shall be three in number and shall be appointed by the irrigation board, subject, however, to the approval of two-thirds of the members of the advisory board hereinafter provided for. The members of such special board of apportionment shall be disinterested persons having no interest in any land within the conservation district within which such apportionment is to be made and not residing within such district. Before entering upon his duties each of the members of said special board of apportionment shall take and subscribe an oath that he is not in any manner

interested in any real estate within said district, directly or indirectly; that he does not reside therein, and that he will perform the duties of a member of such board to the best of his ability. Said special board of apportionment shall determine, define and apportion to the several districts or units within said conservation district, and to the private corporations, mutual water companies and mutual ditch companies admitted to share in the benefits thereof, the amount and extent of the water to be produced, stored or diverted for the project contemplated by said conservation district and the amount and extent of the power to be produced or generated in connection therewith, and shall likewise determine, define and apportion the cost of the project, and shall make a report thereof to the irrigation board. Upon receiving such report the irrigation board shall fix a date for the hearing thereof, and notice to all persons in such conservation district shall be given by publication once a week for four successive weeks in a newspaper of general circulation published in each of the counties in which any portion of the said district is situated. Such hearing shall be held upon a date not less than sixty nor more than ninety days after the first publication of said notice, and affidavits of the publication of said notice in the manner herein provided shall be made and filed with the irrigation board before such hearing. In addition to the publication of such notice the secretary of the irrigation board shall mail a copy thereof to the governing boards of such other districts or political subdivisions of the state and to such private corporations, mutual ditch companies and mutual water companies as may be designated by the irrigation board. At the time set for the hearing the irrigation board shall hear and receive evidence in support of objections which may be presented to the apportionment so made, and shall thereupon make its order approving, modifying or rejecting such apportionment. Any person aggrieved by the order of the irrigation board may commence an action in the superior court of any county in which any part of said conservation district is interested to have said apportionment corrected, modified or annulled. Such action must be commenced within thirty days after said order has been made and filed in the office of the secretary of the irrigation board, and if not so commenced no action or defense shall thereafter be maintained attacking the legality of said apportionment in any respect.

All works constructed at the expense of any irrigation district created under this act, or for any component unit of a conservation district, or for which the same is assessed or charged for the repayment of moneys expended for construction, shall forever be devoted to the purposes of such constituent district or unit under the administration of the irrigation board. No rates shall be charged by an irrigation district formed under the provisions of this act or by a conservation district for the use of water for irrigation therein or for power developed in connection therewith, except for the just proportion of such irrigation district or the units of such conservation district, or of the private corporations, mutual water companies or mutual ditch companies entitled to or receiving the benefits of the construction and operation of the works of said conservation district, for the expenses of the governing bodies and employees thereof and of the maintenance, operation,



repair and supervision of the works constructed for the benefit of such irrigation district or conservation district, and except for the repayment of moneys appropriated and paid as the cost of construction of the said works and the payment of bonds issued therefor and the interest thereon.

It shall be the duty of the irrigation board, and said board shall have power to do all things necessary to that end, to control and supervise the distribution of the water and power apportioned as herein provided to the units of a conservation district and to the private corporations, mutual water companies and mutual ditch companies admitted to share in the benefits thereof.

**Power to contract for repayment of money expended.**

SEC. 11. The irrigation board shall have power to contract with the United States and with the State of California for the repayment of moneys appropriated or expended in the construction of reservoirs, canals, ditches or other works necessary or convenient for any of the purposes herein mentioned. Such repayment shall be made from assessments upon the lands benefited by such works, or the proceeds of bonds issued thereon, from payments made by private corporations, mutual ditch companies or mutual water companies contributing their proportion of the cost of constructing, operating and maintaining such works as provided in section six b of this act, or from revenues derived by the irrigation board for water or power leased or sold by the irrigation board as provided in this act, or from either, all or any of said methods of repayment. The irrigation board may also deposit with the United States and with the state, bonds, notes, contracts, leases, agreements or other obligations for the payment of money, issued or executed by irrigation districts formed under the provisions of this act, or by conservation districts, or the component units of such conservation districts, the proceeds to be applied to said repayment upon such terms as may be agreed upon between the irrigation board and the United States or the State of California.

**Power to purchase land, etc.**

SEC. 12. The irrigation board shall have power to acquire within or without any irrigation district created under this act or any conservation district, from persons, associations or private corporations, by purchase, condemnation or other lawful means, any land, water, water rights, reservoirs, flumes, ditches, power lines, telegraph or telephone lines or other works or parts thereof necessary or convenient for the purposes herein mentioned, or necessary for the carrying out of any of the projects formed hereunder.

**Advisory board.**

SEC. 13. The chairmen or presiding officers of the governing bodies of the respective irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, constituting units of a conservation district created under this act, and of the private corporations, mutual water companies and mutual ditch companies con-

tributing to the cost of constructing, operating and maintaining the works of such conservation district, shall be and constitute an advisory board to consult with the irrigation board, and such advisory board shall perform such executive and administrative functions as may be determined from time to time by the irrigation board.

**Power to make contracts.**

SEC. 14. The irrigation board, except where special power is herein elsewhere conferred, shall have power to make, execute and carry out any agreements or contracts for the performance of any act or the construction of any works provided for in this act, and may make contracts for the sale or rental of unapportioned water or power for periods not to exceed forty years, upon such terms as the irrigation board shall prescribe. All revenues received by the irrigation board from such sales or rentals shall be apportioned to the districts constituting component parts of such conservation district and to the private corporations, mutual water companies and mutual ditch companies contributing to the construction of the project from which such revenues are derived. Such apportionment shall be made in the ratio of the respective amounts of assessments levied or charges made for the construction of the works in connection with which such revenues are derived.

For the purpose of carrying this act into effect and of accomplishing the ends and objects herein expressed, and the development and utilization of the water resources of this state, conservation districts, irrigation districts, formed under the provisions of this act, reclamation districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, and private corporations organized for the purpose of selling or distributing water or electric power for domestic, irrigation, manufacture, or other beneficial uses and purposes, and mutual water companies and mutual ditch companies, may enter into contracts or agreements with each other or with other districts, political subdivisions, private corporations, associations or persons, for the development, appropriation or storage of water and the apportionment and distribution thereof, and the management, operation and maintenance of any works acquired pursuant to this section, and the division, distribution and payment of the cost and expense of such development, appropriation, storage, apportionment, distribution, management, operation and maintenance. And every and all such contract or contracts shall be valid and binding, in accordance with their terms and provisions respectively; *provided, however*, that before any such contract or contracts shall go into force or effect or become binding for any purpose, the same shall be submitted to and approved by the irrigation board; *and provided, further*, that where any such contract relates to or affects the sale, rental or distribution of water or electric power, or the beneficial use of water, by a public utility, the same shall, before it goes into force or effect or becomes binding, be submitted to and approved by the railroad commission of the State of California. And all such contracts approved as herein provided shall be binding and valid for all purposes, either in perpetuity or such term or terms as shall be specified or agreed upon therein or in the order or orders approving the same.

The provisions of this section are in aid of and in addition to other provisions of this act, and the same shall be construed and considered as so in aid of and in addition to, and not limited by or restricted by any of the other terms or provisions of this act. Nothing in this section contained shall be construed to affect or impair the organization or rights of mutual water companies or mutual ditch companies or the rights of the stockholders or members of such companies.

#### **Surveys, etc., of conservation districts.**

SEC. 15. The irrigation board shall, upon the organization of any conservation district as in this act provided, proceed to make or cause to be made, all necessary examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water and the generation of electric power in connection therewith, and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary as aforesaid for the purposes of said conservation district and the probable cost and expense thereof, and in that connection may use and adopt all previous estimates, surveys and reports it may have collected adapted to that purpose, and may employ all necessary engineers and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project and may issue warrants therefor and same shall bear interest from date of issue at the rate of six per cent per annum until paid, and shall be payable out of the funds of said district, and may be included in any bond issue authorized for the purposes of said district.

Such estimate as is above provided for shall be in such form as shall be approved by said irrigation board and shall be entered in the minutes of said board and shall constitute a part of the records of said board, and the same, or a copy thereof, certified by the secretary of said board, shall be admissible as evidence in any proceeding before any court, commission or tribunal of this state wherein the matters therein set forth shall be admissible in evidence.

Whenever, for any of the purposes of this act, the irrigation board shall deem it necessary for the purposes of said district, or the levying of an assessment upon the property therein, or the issuance of bonds by said district, said board shall appoint three commissioners for such purpose or purposes. Such commissioners shall have no interest in any land in the district, either directly or indirectly, and each commissioner before entering upon his duties shall make and subscribe an oath that he is not in any manner interested directly or indirectly in any land in said district, and that he will perform the duties of commissioner to the best of his ability. Thereupon said commissioners shall proceed separately as to each unit within said district to view and assess upon the land within said district a sum sufficient to cover said estimated amount and shall apportion the same according to the benefits which will accrue to each unit within said district, and separately as to each tract of land within said unit. Such benefits to be estimated according to the benefits which will accrue to each tract of land in such unit by reason of the expenditure of said estimated sum, and shall estimate the same in gold coin of the United States.



Said commissioners shall prepare and certify a roll on which they shall state the name and address of the owner of each parcel of land in such unit, or if the name or address of any owner is unknown, then, that fact; also a description of each parcel of land by legal subdivisions or boundaries, and the total amount assessed against each parcel of land so described. No mistake in the name of the owner, or supposed owner of any parcel of land, shall invalidate the apportionment or assessment. A separate roll shall be made for the lands in each county where such unit includes land in more than one county. When completed said roll or rolls shall be filed with the irrigation board and certified copies of the particular roll for each county shall be filed with the county recorder of any county in which any lands within said unit may be, and each roll shall be open for inspection by the public for at least thirty days.

The irrigation board shall appoint a time and place not less than thirty days after said roll has been filed with said recorder or recorders when and where it will meet, within said conservation district for the purpose of hearing objection to said assessment and the apportionment thereof and notice of such hearing shall be published at least once a week for two successive weeks in some newspaper published in each county in which any lands within said district may be. At any time before or at the original date of such hearing, any person interested in any real estate upon which any charge has been apportioned and assessed, may file in the office of the secretary of said irrigation board written objections thereto, stating the grounds of such objections, which said statements shall be verified by the affidavit of such person or some other person who is familiar with the facts. Said irrigation board may postpone such hearing from time to time. At such hearing the irrigation board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment and may modify or amend the same and may reapportion all or any part of the entire assessment. No assessment or apportionment shall be increased except upon the hearing of objections thereto or after personal notice or notice by mail to the owner of the land upon which said increase is made. Said irrigation board must make and enter in its minutes an order approving said assessment and apportionment as finally fixed, and the decision of said irrigation board shall be final, and thereafter said assessment and apportionment shall be conclusive evidence of the validity of said assessment and apportionment, and no action or defense shall ever be maintained attacking the same in any respect. And the records of said irrigation board, or a copy thereof certified by its secretary, shall be received in evidence in all or any of the courts of this state, or before any board or tribunal authorized to hear or consider any matter wherein the same shall be admissible as evidence. No change shall be made in said assessment or apportionment after the consideration, approval and fixing thereof by said irrigation board, and all assessments upon the property of said district thereafter shall be levied in accordance therewith and consistent with the apportionment of benefits therein provided for and fixed, and if any assessments are called for or required in addition to the original amount estimated and apportioned for the purposes of said district, such additional amount shall be assessed, levied and raised in accordance with said apportionment and assessment of benefits so fixed in the

first instance by said irrigation board. A certified copy of such assessment and apportionment roll as finally approved shall be filed in the offices of the county recorder of each county in which any land within said district is situated. Such assessment and apportionment shall thereafter constitute a first lien upon the land affected thereby until the full amount thereof is paid or until all bonds of the district issued thereon, together with the accrued interest, shall have been fully paid. The said irrigation board shall on the first Tuesday in May following the fixing and approval of said assessment and apportionment therein provided for, and annually thereafter on said date, levy an assessment, sufficient to raise the annual interest on the outstanding bonds of said district, and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full all sums that may become due from the district before the time of collection of the next annual assessment, including an amount sufficient to pay in full the amount of any contract or obligation of the district which may come due during said year or may have been reduced to judgment. And to provide for and maintain a fund out of which the current and contingent obligations of said district can be paid in cash as they mature. In addition to the amounts estimated as necessary for the purposes aforesaid, a further levy of fifteen per cent additional shall be included and levied for the purposes of meeting any additional amounts that may be required on account of delinquencies and to insure the payment of all of the bonded indebtedness, including the interest thereon and other obligations of said district at maturity. Whenever there is a surplus in the funds of said district over and above all requirements as herein specified for the payment of the bonded indebtedness and interest thereon and accrued obligations of said district, such a surplus may be used and applied in retiring the outstanding bonds, or any thereof, of said district. The secretary of the irrigation board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment upon the property therein enumerated. In so doing, said secretary shall enter the names of the owners of such lands and the descriptions thereof in accordance with the last assessment roll of the county in which the said lands are situated. Such assessment must be so levied and computed as to be in accordance with the apportionment and assessment of benefits herein provided for and so that all lands within said district shall be assessed and required to pay in accordance therewith.

The secretary of said board shall forthwith deliver a certified copy of that portion of said assessment so directed to be entered by him, so far as it applies or appertains to any land within any county situated within said district to the county auditor of such county, and such auditor shall accept and receipt for the same; and thereupon it shall be the duty of said auditor to include said assessment as an assessment against each parcel or tract of land therein described. It shall be the duty of said auditor to examine and ascertain as to any errors or discrepancies that may exist in said roll as to the ownership of, or the descriptions of, land as applied to any owner or owners thereof as compared with the assessment roll of the said county for such year, and if

any such difference or discrepancies are found, it shall be the duty of said auditor to correct the same accordingly so that the said roll as to ownerships and descriptions of land and assessments thereof shall correspond to the assessment roll of said county and for such year. And it shall be his duty to audit, enter and certify the same to the tax collector of said county for collection in the same manner and form as county, school district and other taxes are included and certified by him to such tax collector, and all such assessments shall constitute a first lien upon the lands affected thereby as hereinbefore provided.

The board of supervisors is hereby authorized and empowered to employ what extra clerical force is necessary to perform the additional duties herein prescribed for the auditor. Said extra clerks shall receive as compensation for the work herein provided a per diem not to exceed five dollars which shall be paid by the districts operating under the provisions of this act in proportion to the amount of work done for each and it shall be the duty of the clerk of said board to issue warrants payable to such clerks employed as herein provided out of the funds of the districts, upon the presentation of a verified demand, approved by the auditor and the board of supervisors.

Upon receipt of the same from the auditor of such county it shall be the duty of the tax collector of said county to include the same as a separate entry and charge against the land therein described and to collect the same with the county, school district and other taxes so required to be collected by such county tax collector and to keep and deposit such district taxes in a separate fund, and when the same is collected it shall be the duty of such tax collector to pay the same over to the treasurer of such county at the same time and in the same manner as other taxes collected by him are paid over to such treasurer, and it shall be the duty of such treasurer to receive the same as other taxes are received by him and after receipt thereof to keep the same in a separate fund; and upon receipt of same, or any part thereof, it shall be the duty of such county treasurer within thirty days thereafter to pay the same and all thereof to the treasurer of the State of California, who shall receive and keep the same and deposit the same in a separate fund to the credit of the said district, and to be paid out by him upon the order and approval of the said irrigation board.

All moneys received under contracts, leases or other arrangements by such conservation district from any canal companies, mutual or other water companies, reclamation districts, or from any corporations, individuals, or other sources not herein otherwise provided for shall be collected by said irrigation board and by it deposited with the state treasurer, and thereafter to be disbursed as provided as to funds of such district under the order and direction of such irrigation board for the purposes and obligations of said district, including the payment and retirement of outstanding bonds with interest thereon.

From and after the time of the filing of such assessment roll of such district with the auditor of any county the taxes therein enumerated, levied and assessed, shall be regarded and treated as are the other taxes of said county or the school districts thereof, and the same shall be included in and considered a part of such taxes and the same shall become delinquent at the same time and in the same manner as such



other taxes, and with respect to any delinquency or delinquent notices the same shall become delinquent and notice thereof shall be published with and at the same time and in the same manner as other delinquent taxes, and the same shall be similarly treated for all purposes of notice and sale thereof for such delinquent taxes, and shall be subject to redemption from such delinquent district taxes at the same time and in the same manner and through the same officials as are such other taxes. And any and all charges and penalties in connection with such delinquency and interest thereon and penalties in connection therewith shall be similarly charged and collected, and the amounts so collected on account of any such delinquent taxes or interest or penalties thereon shall be received by the county treasurer and paid over to the state treasurer in the same manner as is hereinabove provided, and in the event of the sale of any property for delinquent taxes of such counties or other delinquent taxes, said district taxes shall be included therein and said property shall be sold therefor in connection with and including such other taxes, and upon a redemption thereof or upon a sale of said lands the said district taxes shall be included therein and together with interest and penalties thereon the same shall be received and paid over to the county treasurer, and by him paid over to the state treasurer, as hereinbefore provided.

#### Issue of bonds.

SEC. 16. At any time after the irrigation board shall have made the examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water, and for the other purposes enumerated in this act, and after the same has been entered in the minutes of said board and shall have also had assessed and apportioned upon the lands in said conservation district the charges and benefits and apportionments provided for in this act, and after such apportionment and assessment roll shall have been finally fixed and approved by the said board, and after the same has been entered in the minutes of the said board must, as soon as may be practicable, proceed and issue the bonds of said district for the purposes aforesaid.

The said board shall, in connection with the previous estimates made and adopted by it, estimate the amount of money necessary to be raised by such bond issue for the purposes of said district, as aforesaid, and shall ascertain and determine the same and enter its order to that effect in the minutes of said board. And whenever thereafter the construction fund has been exhausted by expenditures herein authorized, and it is necessary to raise additional money for such purposes, it shall be the duty of said board to estimate and determine the amount of money necessary to be raised for such additional purposes.

For the purposes of such bond issue, or additional bond issue, the said board shall be authorized to employ engineers and other assistants and make all such further examinations and estimates as may be necessary, to fix and determine such matters and the conclusion and estimates of said board shall be entered in its minutes. Said irrigation board shall by order entered in its records order a special election to be held at such places in said district as shall be designated by said irrigation board, and at least one such place shall be designated as a voting place

in each unit of said conservation district at which said election there shall be submitted to the owners of land in said district the question of whether or not the bonds of said district shall be issued in the amount specified in the order of said board, and which amount shall be stated in the order for such special election. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes where the question of title to land claimed to be owned by such voter or owner is involved, the equalized assessment roll for the year last preceding in each county wherein any land of the said district is situated, shall be sufficient evidence of ownership of lands in the district, and the certificate of the register of the United States land office in which the lands are situated or of the surveyor general of the State of California, shall be sufficient evidence of possessory right in any lands in the district entered under the laws of the United States or of the State of California. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may sign any such petition and may vote without obtaining any special authority therefor. Said irrigation board shall at the time of calling the said election designate in its order the voting places at which said election shall be held and where votes shall be cast and shall designate three landholders of the district to act as a board of election at each voting place.

Notice of such special election must be given by the irrigation board by posting notice thereof in at least three public places in each unit of the district at least twenty days prior thereto, and also by publishing such notice once a week for the same length of time in some newspaper of general circulation, published in each county in which any portion of said district may be situated, or if there be no newspaper published in any one of such counties, then in each county wherein such newspaper is published; and such notice must specify the time and place of holding said election and the aggregate face value of bonds proposed to be issued and the names of three landholders of said district to act as a board of election at each polling place. Affidavits of the publication and posting of such notice must be filed with the clerk of said irrigation board.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the district, such ownership to be determined from the next preceding assessment roll of the county or counties in which the lands of the district are situated and the irrigation board shall, prior to the election, cause to be prepared and certified and furnished to the board of election at each polling place, a true and correct copy of each of said next preceding assessment rolls so far as such assessment roll applies to any lands within such district, and shall likewise cause to be prepared and furnished lists certified by the register of the United States land office and the surveyor general of the State of California respectively showing the lands within the district entered upon under the laws of the United States and the State of California respectively, which said list, so far as disclosed by the records of said officers, shall contain the names of the persons entitled to possessory rights therein and the quantity of land held by

each of said persons by virtue of said rights. Said certified rolls and certified lists shall be used by the board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

The ballots cast at such election shall contain the words "bonds, yes" or "bonds, no" and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and, if the ballots be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present, voting individually, may appoint in his place any landholder in the district. Each member of said board of election must, before entering upon his duties, take and subscribe an official oath, to faithfully perform his duties as an officer of such election, which oath may be administered by an officer authorized to administer oaths, or by a landholder in the district.

The polls shall be kept open from ten o'clock a.m. of the day of election until five o'clock p.m. of that day.

At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall forward a certificate showing such result and the number of votes cast for and against the issuing of the bonds to the irrigation board and shall also deliver to the said irrigation board all ballots cast at such election and all documents and papers used at such election.

Said irrigation board shall, upon the receipt of such canvass and declaration of the result from the said board of election, proceed to examine the same and shall ascertain and declare the result as shown by such canvass and declaration, and shall enter an order in its minutes that the said proposition for the issuance of said bonds has been carried or defeated, as the case may be.

Forthwith, upon the declaration of the result of said election by said irrigation board, the secretary of said board shall make a certified copy of the order of said board, declaring the result of said election, and shall forward said certified copy or copies to the recorder or recorders of the counties in which any land of said conservation district may be situated, and the same shall forthwith be filed and recorded in said recorder or recorders' office, and shall impart notice to all interested persons as to the result of said election.

Any person owning property within the said district, liable to assessment, may contest such election, by filing a written contest specifying the grounds of his objections thereto, with said irrigation board, said written contest to be filed within thirty days after the declaration of the result of said election by said irrigation board, and if no such contest



and objections be filed within thirty days, no such contest and objections shall thereafter be received or filed. Such written contest shall specify the ground or grounds of contest to said election, and upon the filing of the same with said irrigation board shall expeditiously set the said contest for hearing, and shall have the right to postpone the hearing for such time as may be necessary, but not otherwise, and shall expeditiously hear and determine the same. For the purposes of such hearing the board may by subpoena, signed by the secretary, under its seal, compel the attendance of witnesses and the production of evidence. Disobedience of such subpoena or of any lawful order of the board in the premises shall constitute a contempt of the authority of the board punishable by the board in accordance with title five of part three, of the Code of Civil Procedure, and shall also constitute a misdemeanor under section one hundred sixty-six of the Penal Code. Said irrigation board shall, upon the conclusion of said hearing of said contest, proceed forthwith to enter its order and decision thereon. Such decision on the part of said irrigation board shall be final, conclusive and binding upon all parties interested as to validity and as to result of such election and shall be subject to review only in event suit is brought by the said district or by some person or corporation or association authorized to bring the same to determine the question of the validity of the said bond issue, and in the determination and adjudication of the question of the validity of said bond issue, as hereinafter specified, the court may review and consider the validity of said election for the issuance of said bonds, but in such action the certificate and determination of said irrigation board shall be received and accepted by the court as prima facie evidence of the result as to the validity of said election and the regularity of the canvassing, counting and return of the votes cast at said election. If a majority of the votes cast at such an election is in favor of the issuance of bonds, the irrigation board after canvassing the returns and declaring the result of said election shall cause bonds in the amount stated in the order for the election to be issued, executed and delivered to the state treasurer of the State of California. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the irrigation board and attested by the secretary thereof, and shall be numbered consecutively in the order of their maturity, and shall bear interest at the rate not exceeding six per centum per annum, payable semiannually on the first day of January and the first day of July in each year, at the office of said state treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the state treasurer of the State of California.

The principal of said bonds shall be made payable, by an order entered into the minutes of the irrigation board, upon the first day of July or the first day of January, and in such years as the irrigation board may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

Not less than five per cent of the aggregate face value of the bonds issued shall be payable each year, beginning not later than the twentieth year from their date until the whole amount of said bonds have been paid.

Said irrigation board, subject to the provisions of this act, is authorized and empowered to take all such actions and make all such orders as may be necessary in connection with the issuance, sale and disposition of said bonds.

Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA.

No. -----

\$ -----

(Name of district) Conservation District No. ----- for value received, hereby acknowledge itself indebted to and promises to pay to the holder hereof at the office of the state treasurer of the State of California, on the first day of -----, 19----, the sum of \$ -----, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of ----- per cent per annum, payable at the office of said treasurer semiannually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of ----- bonds of like tenor and effect, except as to denomination and maturity, numbered from ----- to -----, inclusive, amounting in the aggregate to \$ -----, issued in accordance with the California irrigation act, pursuant to an election held in said district on the ----- day of -----, 19----, authorizing its issuance, and is based upon and secured by a lien upon and a valuation and apportionment levied on the land in said district and filed in the office of the state irrigation board on the ----- day of -----, 19----. And the said district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the State of California applicable thereto, and that all of the acts and conditions and things required by law to be done precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of such district bonds.

In testimony whereof, the said conservation district, acting by and through the irrigation board of the State of California, has caused this bond to be signed by the president of said irrigation board, and attested by the secretary thereof, with his seal of office affixed, this ----- day of -----, 19-----.

By -----

President of said board.

Attest: -----

Secretary of said board.

And the interest coupon may be substantially in the following form?

No. ----- \$ -----

The state treasurer of the State of California will pay to the holder hereof on the ----- day of -----, 19----, at his office in the city of Sacramento, State of California, the sum of \$ ----- in gold coin of the United States out of the funds of ----- district ----- for interest on bond of said district numbered -----.

-----  
State treasurer.

The state treasurer shall place the bonds prepared pursuant to this act to the credit of the district and the irrigation board may in its discretion direct the state treasurer to sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the state treasurer by publication at least once a week for three weeks in a newspaper of general circulation published in the city of Sacramento, and also one or more papers in said district, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the state treasurer shall open the bids and award the bonds to the highest responsible bidder. He may reject any and all bids. Any sale by the state treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the state treasury to the credit of said district, and a proper record of such transaction shall be made upon his books. At any time after said bonds shall have been delivered to the state treasurer, an action may be commenced in the superior court of the county within which is situated the largest area of land within said district by the irrigation board in the name of the district or by any unit of said district or by any person owning property within the said district liable to assessment. Such action shall be brought and prosecuted against the lands in said district and all persons owning the same or interested therein, to have it determined as to whether or not said bonds when sold will be a legal obligation of such district. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for three weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court and judgment rendered declaring such matter so contested either valid or invalid.



Any party not in default may have the right to appeal to the supreme court within thirty days after entry of judgment and said appeal and the hearing thereof shall be expedited in said court. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons.

The irrigation board may draw warrants upon the state treasurer against the funds provided by sale of said bonds.

The money derived from the sale of any of said bonds shall be received by the state treasurer and shall by him be safely kept and placed to the credit of said district in a fund to be designated in the name of such district for the said district and may be drawn and expended upon warrants drawn against said fund as in this act provided.

Bonds of any district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by the laws of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

If after said district has authorized the issuance and sale of a series of bonds under this act, it shall become necessary so to do, an additional bond issue or series of bonds may be authorized and sold and all proceedings shall be had and taken, and all procedure in connection with said second issue or series of bonds shall be had and taken in accordance with the provisions of this act as to the first issue of bonds; *provided*, that said second issue or series of bonds shall not be issued so as to in any manner interfere with the lien or security of the payment of the first issue of bonds, and said second issue or series of bonds shall, as to the lien thereof and as to the security of same, be subsequent and subordinate and subject to such first bond issue.

#### **Surveys, etc., of irrigation district.**

SEC. 17. The irrigation board shall, upon the organization of any irrigation district as in this act provided, proceed to make or cause to be made, all necessary examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water and the generation of electric power in connection therewith, and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary as aforesaid for the purposes of said irrigation district and the probable cost and expense thereof, and in that connection may use and adopt all previous estimates, surveys and reports it may have collected adapted to that purpose, and may employ all necessary engineers and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project, and may issue warrants therefor and same shall bear interest from date of issue at the rate of

six per cent per annum until paid, and shall be payable out of the funds of said district, and may be included in any bond issue authorized for the purposes of said district.

Such estimate as is above provided for shall be in such form as shall be approved by said irrigation board and shall be entered in the minutes of said board and shall constitute a part of the records of said board, and the same, or a copy thereof, certified by the secretary of said board, shall be admissible as evidence in any proceeding before any court, commission or tribunal of this state wherein the matters therein set forth shall be admissible in evidence.

Whenever, for any of the purposes of this act, the irrigation board shall deem it necessary for the purposes of said irrigation district, or the levying of an assessment upon the property therein, or the issuance of bonds by said irrigation district, said board shall appoint three commissioners for such purpose or purposes. Such commissioners shall have no interest in any land in the irrigation district, either directly or indirectly, and each commissioner before entering upon his duties shall make and subscribe an oath that he is not in any manner interested directly or indirectly in any land in said irrigation district, and that he will perform the duties of commissioner to the best of his ability. Thereupon said commissioners shall proceed to view and assess upon the land within said irrigation district a sum sufficient to cover said estimated amount and shall apportion the same according to the benefits which will accrue to each tract of land within said irrigation district, such benefits to be estimated according to the benefits which will accrue to each tract of land in such irrigation district by reason of the expenditure of said estimated sum, and shall estimate the same in gold coin of the United States.

Said commissioners shall prepare and certify a roll on which they shall state the name and address of the owner of each parcel of land in such irrigation district, or if the name or address of any owner is unknown, then that fact; also a description of each parcel of land by legal subdivisions or boundaries, and the total amount assessed against each parcel of land so described. No mistake in the name of the owner, or supposed owner of any parcel of land, shall invalidate the apportionment or assessment. A separate roll shall be made for the lands in each county where such irrigation district includes land in more than one county. When completed said roll or rolls shall be filed with the irrigation board and certified copies of the particular roll for each county shall be filed with the county recorder of any county in which any lands within said irrigation district may be, and each roll shall be open for inspection by the public for at least thirty days.

The irrigation board shall appoint a time and place not less than thirty days after said roll has been filed with said recorder or recorders when and where it will meet, within the county in which the greater portion of said irrigation district is situated for the purpose of hearing objection to said assessment and the apportionment thereof and notice of such hearing shall be published at least once a week for two successive weeks in some newspaper published in each county in which any lands within said irrigation district may be. At any time before or at the original date of such hearing, any person interested in any real estate upon which any charge has been apportioned and assessed, may file in



the office of the secretary of said irrigation board written objections thereto, stating the grounds of such objections, which said statements shall be verified by the affidavit of such person or some other person who is familiar with the facts. Said irrigation board may postpone such hearing from time to time. At such hearing the irrigation board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment and may modify or amend the same and may reapportion all or any part of the entire assessment. No assessment or apportionment shall be increased except upon the hearing of objections thereto or after personal notice or notice by mail to the owner of the land upon which said increase is made. Said irrigation board must make and enter in its minutes an order approving said assessment and apportionment as finally fixed, and the decision of said irrigation board shall be final, and thereafter said assessment and apportionment shall be conclusive evidence of the validity of said assessment and apportionment, and no action or defense shall ever be maintained attacking the same in any respect. And the records of said irrigation board, or a copy thereof certified by its secretary, shall be received in evidence in all or any of the courts of this state, or before any board or tribunal authorized to hear or consider any matter wherein the same shall be admissible as evidence. No change shall be made in said assessment or apportionment after the consideration, approval and fixing thereof by said irrigation board and all assessments upon the property of said irrigation district thereafter shall be levied in accordance therewith and consistent with the apportionment of benefits therein provided for and fixed, and if any assessments are called for or required in addition to the original amount estimated and apportioned for the purposes of said irrigation district, such additional amount shall be assessed, levied and raised in accordance with said apportionment and assessment of benefits so fixed in the first instance by said irrigation board. A certified copy of such assessment and apportionment roll as finally approved shall be filed in the office of the county recorder of each county in which any land within said irrigation district is situated. Such assessment and apportionment shall thereafter constitute a first lien upon the land affected thereby until the full amount thereof is paid or until all bonds of the irrigation district issued thereon, together with the accrued interest, shall have been fully paid. The said irrigation board shall on the first Tuesday in May following the fixing and approval of said assessment and apportionment therein provided for, and annually thereafter on said date, levy an assessment, sufficient to raise the annual interest on the outstanding bonds of said irrigation district, and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full all sums that may become due from the irrigation district before the time of collection of the next annual assessment, including an amount sufficient to pay in full the amount of any contract or obligation of the irrigation district which may come due during said year or may have been reduced to judgment, and to provide for and maintain a fund out of which the current and contingent obligations of said irrigation district can be paid in cash as they mature. In addition to the amounts estimated as necessary



for the purposes aforesaid, a further levy of fifteen per cent additional shall be included and levied for the purposes of meeting any additional amounts that may be required on account of delinquencies and to insure the payment of all of the bonded indebtedness, including the interest thereon and other obligations of said irrigation district at maturity. Whenever there is a surplus in the funds of said district over and above all requirements as herein specified for the payment of the bonded indebtedness and interest thereon and accrued obligations of said irrigation district, such a surplus may be used and applied in retiring the outstanding bonds or any thereof of said irrigation district. The secretary of the irrigation board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment upon the property therein enumerated. In so doing, said secretary shall enter the names of the owners of such lands and the descriptions thereof in accordance with the last assessment roll of the county in which the said lands are situated. Such assessment must be so levied and computed as to be in accordance with the apportionment and assessment of benefits herein provided for and so that all lands within said irrigation district shall be assessed and required to pay in accordance therewith.

The secretary of said board shall forthwith deliver a certified copy of that portion of said assessment so directed to be entered by him, so far as it applies or appertains to any land within any county situated within said irrigation district to the county auditor of such county, and such auditor shall accept and receipt for the same, and thereupon it shall be the duty of said auditor to include said assessment as an assessment against each parcel or tract of land therein described. It shall be the duty of said auditor to examine and ascertain as to any errors or discrepancies that may exist in said roll as to the ownership of or the descriptions of land as applied to any owner or owners thereof as compared with the assessment roll of the said county for such year, and if any such difference or discrepancies are found, it shall be the duty of said auditor to correct the same accordingly so that the said roll as to ownerships and descriptions of land and assessments thereof shall correspond to the assessment roll of said county and for such year. And it shall be his duty to audit, enter and certify the same to the tax collector of said county for collection in the same manner and form as county, school district and other taxes are included and certified by him to such tax collector, and all such assessments shall constitute a first lien upon the lands affected thereby as hereinbefore provided.

The board of supervisors is hereby authorized and empowered to employ what extra clerical force is necessary to perform the additional duties herein prescribed for the auditor. Said extra clerks shall receive as compensation for the work herein provided a per diem not to exceed five dollars which shall be paid by the districts operating under the provisions of this act in proportion to the amount of work done for each and it shall be the duty of the clerk of said board to issue warrants payable to such clerks employed as herein provided out of the funds of the districts, upon the presentation of a verified demand, approved by the auditor and the board of supervisors.

Upon receipt of the same from the auditor of such county it shall be the duty of the tax collector of said county to include the same as

a separate entry and charge against the land therein described and to collect the same with the county, school district and other taxes so required to be collected by such county tax collector and to keep and deposit such irrigation district taxes in a separate fund, and when the same is collected it shall be the duty of such tax collector to pay the same over to the treasurer of such county at the same time and in the same manner as other taxes collected by him are paid over to such treasurer, and it shall be the duty of such treasurer to receive the same as other taxes are received by him and after receipt thereof to keep the same in a separate fund and upon receipt of same, or any part thereof, it shall be the duty of such county treasurer within thirty days thereafter to pay the same and all thereof to the treasurer of the State of California, who shall receive and keep the same and deposit the same in a separate fund to the credit of the said district, and to be paid out by him upon the order and approval of the said irrigation board.

All moneys received under contracts, leases or other arrangements by such irrigation district from any canal companies, mutual or other water companies, reclamation districts, or from any corporations, individuals, or other sources not herein otherwise provided for, shall be collected by said irrigation board and by it deposited with the state treasurer, and thereafter to be disbursed as provided as to funds of such irrigation district under the order and direction of such irrigation board for the purposes and obligations of said irrigation district, including the payment and retirement of outstanding bonds with interest thereon.

From and after the time of the filing of such assessment roll of such irrigation district with the auditor of any county the taxes therein enumerated, levied and assessed, shall be regarded and treated as are the other taxes of said county or the school districts thereof and the same shall be included in and considered a part of such taxes and the same shall become delinquent at the same time and in the same manner as such other taxes, and with respect to any delinquency or delinquent notices the same shall become delinquent and notice thereof shall be published with and at the same time and in the same manner as other delinquent taxes and the same shall be similarly treated for all purposes of notice and sale thereof for such delinquent taxes, and shall be subject to redemption from such delinquent irrigation district taxes at the same time and in the same manner and through the same officials as are such other taxes. And any and all charges and penalties in connection therewith shall be similarly charged and collected, and the amounts so collected on account of any such delinquent taxes or interest or penalties thereon shall be received by the county treasurer and paid over to the state treasurer in the same manner as is hereinabove provided, and in the event of the sale of any property for delinquent taxes of such counties or other delinquent taxes, said irrigation district taxes shall be included therein and said property shall be sold therefor in connection with and including such other taxes, and upon a redemption thereof or upon a sale of said lands the said irrigation district taxes shall be included therein and together with interest and penalties thereon the same shall be received and paid over to the county treasurer, and by him paid over to the state treasurer, as hereinbefore provided.

**Defraying expenses prior to making assessments.**

SEC. 17a. Upon the organization of an irrigation district hereunder and for the purpose of defraying the expenses of such organization, and for any other purposes of this act, prior to the making of the assessment provided for in section seventeen, the directors may incur an indebtedness not exceeding one-half as many dollars as there are acres in the district, and upon the certification thereof to the irrigation board, such board shall cause warrants to issue therefor bearing interest at a rate to be fixed by the board of directors, not to exceed six per centum per annum, and thereafter it shall be the duty of the irrigation board to levy an assessment sufficient to pay said warrants upon all of the lands within the district, in the same manner and at the same time, so far as possible, as other assessments are provided to be levied (except as to the appointment of commissioners). Said assessment shall be ascertained by dividing the number of dollars due or to become due upon the warrants which have been issued by the number of acres in the district, and assessing to each acre the result so obtained. Such assessment roll shall be prepared and delivered to the county auditor or auditors by the secretary of the irrigation board as provided in section seventeen, and the said amount shall be collected by the tax collector of the county in the same manner as is provided for the collection of other assessments levied by the district.

Where an irrigation district is organized after the first Tuesday in May of any year, the irrigation board shall nevertheless, at the request of the board of directors of said district, cause an assessment to be levied payable at the same time as if levied prior to the first Tuesday in May as in this section provided, of an amount sufficient to defray the expenses of organization and other expenses of the district prior to the levying of the assessment provided for in section seventeen, not, however, to exceed the limit in this section specified.

**Issue of bonds.**

SEC. 18. At any time after the irrigation board shall have made the examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water, and for the other purposes enumerated in this act, and after the same has been entered in the minutes of said board and shall have also had assessed and apportioned upon the lands in any irrigation district organized under the provision of this act the charges and benefits and apportionments provided for in this act; and after such apportionment and assessment roll shall have been finally fixed and approved by the said board, and after the same has been entered in the minutes of the said board must, as soon as may be practicable, proceed and issue the bonds of said irrigation district for the purposes aforesaid.

The said board shall, in connection with the previous estimates made and adopted by it, estimate the amount of money necessary to be raised by such bond issue for the purposes of said irrigation district, as aforesaid, and shall ascertain and determine the same and enter its order to that effect in the minutes of said board. And whenever thereafter the construction fund of said irrigation district has been exhausted by expenditures herein authorized, and it is necessary to raise additional



money for such purposes, it shall be the duty of said board to estimate and determine the amount of money necessary to be raised for such additional purposes.

For the purposes of such bond issue, or additional bond issue, the said board shall be authorized to employ engineers and other assistants and make all such further examinations and estimates as may be necessary, to fix and determine such matters and the conclusion and estimates of said board shall be entered in its minutes. Said irrigation board shall by order entered in its records order a special election to be held at such place or places in said irrigation district as shall be designated by said irrigation board, at which said election there shall be submitted to the owners of land in said irrigation district the question whether or not the bonds of said district shall be issued in the amount specified in the order of said board, and which amount shall be stated in the order for such special election. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes where the question of title to land claimed to be owned by such voter or owner is involved, the equalized assessment roll for the year last preceding in each county wherein any land of the said irrigation district is situated, shall be sufficient evidence of ownership of lands in the irrigation district. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote without obtaining any special authority therefor. Said irrigation board shall at the time of calling the said election designate in its order the voting place or places at which said election shall be held and where votes shall be cast and shall designate three landholders of the irrigation district to act as a board of election at each voting place.

Notice of such special election must be given by the irrigation board by posting notice thereof in at least three public places in such irrigation district at least twenty days prior thereto, and also by publishing such notice once a week for the same length of time in some newspaper of general circulation, published in each county in which any portion of said irrigation district may be situated, or if there be no newspaper published in any one of such counties, then in each county wherein such newspaper is published; and such notice must specify the time and place of holding said election and the aggregate face value of bonds proposed to be issued and the names of three landholders of said irrigation district to act as a board of election at each polling place. Affidavits of the publication and posting of such notice must be filed with the secretary of said irrigation board.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the irrigation district, such ownership to be determined from the next preceding assessment roll of the county or counties in which the lands of the irrigation district are situated and the irrigation board shall, prior to the election, cause to be prepared and certified and furnished to the board of election at each polling place, a true and correct copy of each of said next preceding assessment rolls so far as such assessment roll applies to any lands within such irrigation district, which said certified roll shall be used by the board of election in determining the number of votes each

voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

The ballots cast at such election shall contain the words, "bonds, yes" or "bonds, no" and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and, if the ballots be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present, voting individually, may appoint in his place any landholder in the irrigation district. Each member of said board of election must, before entering upon his duties, take and subscribe an official oath, to faithfully perform his duties as an officer of such election, which oath may be administered by any officer authorized to administer oaths, or by a landholder in the irrigation district.

The polls shall be kept open from ten o'clock a.m. of the day of election until five o'clock p.m. of that day.

At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall forward a certificate showing such result and the number of votes cast for and against the issuing of the bonds to the irrigation board and shall also deliver to the said irrigation board all ballots cast at such election and all documents and papers used at such election.

Said irrigation board shall, upon the receipt of such canvass and declaration of the result from the said board of election, proceed to examine the same and shall ascertain and declare the result as shown by such canvass and declaration, and shall enter an order in its minutes that the said proposition for the issuance of said bonds has been carried or defeated, as the case may be.

Forthwith, upon the declaration of the result of said election by said irrigation board, the secretary of said board shall make a certified copy of the order of said board, declaring the result of said election, and shall forward said certified copy or copies to the recorder or recorders of the counties in which any land of said irrigation district may be situated, and the same shall forthwith be filed and recorded in said recorder or recorders' office, and shall impart notice to all interested persons as to the result of said election.

Any person owning property within the said irrigation district, liable to assessment, may contest such election, by filing a written contest specifying the grounds of his objections thereto, with said irrigation board, said written contest to be filed within thirty days after the declaration of the result of said election by said irrigation board, and if no such contest and objections be filed within thirty days, no such contest and objections shall thereafter be received or filed. Such written contest shall specify the ground or grounds of contest to said

election, and upon the filing of the same with said irrigation board it shall expeditiously set the said contest for hearing, and shall have the right to postpone the hearing for such time as may be necessary, but not otherwise, and shall expeditiously hear and determine the same. For the purposes of such hearing the board may by subpoena signed by the secretary under its seal compel the attendance of witnesses and the production of evidence. Disobedience of such subpoena or of any lawful order of the board in the premises shall constitute a contempt of the authority of the board punishable by the board in accordance with title five of part three of the Code of Civil Procedure, and shall also constitute a misdemeanor under section one hundred sixty-six of the Penal Code. Said irrigation board shall, upon the conclusion of said hearing of said contest, proceed forthwith to enter its order and decision thereon. Such decision on the part of said irrigation board shall be final, conclusive and binding upon all parties interested as to validity and as to result of such election and shall be subject to review only in the event suit is brought by the said irrigation district or by some person or corporation or association authorized to bring the same to determine the question of the validity of the said bond issue, and in the determination and adjudication of the question of the validity of said bond issue, as hereinafter specified, the court may review and consider the validity of said election for the issuance of said bonds, but in such action the certificate and determination of said irrigation board shall be received and accepted by the court as prima facie evidence of the result as to the validity of said election and the regularity of the canvassing, counting and return of the votes cast at said election. If a majority of the votes cast at such an election is in favor of the issuance of bonds, the irrigation board shall after canvassing the returns and declaring the result of said election cause bonds of said irrigation district in the amount stated in the order for the election to be issued, executed and delivered to the state treasurer of the State of California. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the irrigation board and attested by the secretary thereof, and shall be numbered consecutively in the order of their maturity, and shall bear interest at the rate not exceeding six per centum per annum, payable semiannually on the first day of January and the first day of July in each year, at the office of said state treasurer, upon the presentation of the proper coupons therefor. Coupons for each instalment of interest shall be attached to said bonds and shall bear the facsimile signature of the state treasurer of the State of California.

The principal of said bonds shall be made payable, by an order entered into the minutes of the irrigation board, upon the first day of July or the first day of January, and in such years as the irrigation board may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

Not less than five per cent of the aggregate face value of the bonds issued shall be payable each year, beginning not later than the twentieth year from their date until the whole amount of said bonds have been paid.



Said irrigation board, subject to the provisions of this act, is authorized and empowered to take all such actions and make all such orders as may be necessary in connection with the issuance, sale and disposition of said bonds.

Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA.

No. ----- \$ -----  
Name of district ----- Irrigation District -----

Organized under California Irrigation Act of 1919.

(Name of district) Irrigation District, for value received, hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the state treasurer of the State of California, on the first day of -----, 19----, the sum of \$ -----, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of ----- per cent per annum, payable at the office of said treasurer semiannually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of ----- bonds of like tenor and effect, except as to denomination and maturity, numbered from ----- to ----- inclusive, amounting in the aggregate to \$ ----- issued in accordance with the California irrigation act of 1919, pursuant to an election held in said district on the ----- day of -----, 19----, authorizing its issuance and is based upon and secured by a lien upon and a valuation and apportionment levied on the land in said irrigation district and filed in the office of the state irrigation board on the ----- day of -----, 19----; and the said district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the State of California applicable thereto, and that all of the acts and conditions and things required by law to be done precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of such irrigation district bonds.

In testimony whereof, the said irrigation district, acting by and through the irrigation board of the State of California, has caused this bond to be signed by the president of said irrigation board, and attested by the secretary thereof, with his seal of office affixed, this ----- day of -----, 19----.

By -----

President of said board.

Attest: -----

Secretary of said board.

And the interest coupon may be substantially in the following form:  
 No. ----- \$ -----

The state treasurer of the State of California will pay to the holder hereof on the ----- day of -----, 19\_\_\_\_, at his office in the city of Sacramento, State of California, the sum of \$ ----- in gold coin of the United States out of the funds of ----- irrigation district ----- for interest on bond of said irrigation district numbered -----.

-----  
 State treasurer.

The state treasurer shall place the bonds prepared pursuant to this act to the credit of the irrigation district and the irrigation board may in its discretion direct the state treasurer to sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the state treasurer by publication at least once a week for three weeks in a newspaper of general circulation published in the city of Sacramento, and also one or more papers in the county in which the greater portion of said irrigation district is situated, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the state treasurer shall open the bids and award the bonds to the highest responsible bidder. He may reject any and all bids. Any sale by the state treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the state treasury to the credit of said irrigation district, and a proper record of such transaction shall be made upon his books. At any time after said bonds shall have been delivered to the state treasurer, an action may be commenced in the superior court of the county within which is situated the largest area of land within said irrigation district by the irrigation board in the name of the irrigation district or by any person owning property within the said irrigation district liable to assessment. Such action shall be brought and prosecuted against the lands in said irrigation district and all persons owning the same or interested therein, to have it determined as to whether or not said bonds when sold will be a legal obligation of such irrigation district. It shall be sufficient to describe said lands as all lands in the irrigation district (naming it) without a more specific description. The summons shall be published once a week for three weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such irrigation district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of

said bonds. The fault of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days after entry of judgment and said appeal and the hearing thereof shall be expedited in said court. Judgment for the plaintiff in such proceedings shall be considered as a judgment *in rem* and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons.

The irrigation board may draw warrants upon the state treasurer against the funds provided by sale of said bonds.

The money derived from the sale of any of said bonds shall be received by the state treasurer and shall by him be safely kept and placed to the credit of said irrigation district in a fund to be designated in the name of such irrigation district for the said irrigation district and may be drawn and expended upon warrants drawn against said fund as in this act provided.

Bonds of any irrigation district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by a law of this state to conduct such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

If after said irrigation district has authorized the issuance and sale of a series of bonds under this act, it shall become necessary so to do an additional bond issue or series of bonds may be authorized and sold and all proceedings shall be had and taken, and all procedure in connection with said second issue or series of bonds shall be had and taken in accordance with the provisions of this act as to the first issue of bonds; *provided*, that said second issue or series of bonds shall not be issued so as to in any manner interfere with the lien or security of the payment of the first issue of bonds, and said second issue or series of bonds shall, as to the lien thereof and as to the security of same, be subsequent and subordinate and subject to such first bond issue.

#### Application of act.

SEC. 19. Nothing in this act contained shall affect, or apply to, any irrigation, protection, flood control, conservation, or other improvement district situated wholly or in part within any county which has adopted a charter pursuant to section seven and one-half of article eleven of the constitution of California, ratified and approved as provided therein, prior to June 4, 1915, or within any city and county; and said board shall have no power of jurisdiction within any of said districts or within such counties or city and county.



**Proceeding initiated under former acts.**

SEC. 20. The California irrigation act, approved June 4, 1915, and chapter six hundred forty-six of the statutes of 1917, approved May 28, 1917, amendatory thereof, are hereby repealed; but any petition circulated for signature pursuant to the provisions of said amendatory act and prior to the effective date of this act may be filed as though prepared pursuant to the provisions hereof, and any proceeding initiated under said amendatory act but not completed prior to the effective date of this act, may be completed hereunder, all proceedings subsequent to such effective date, however, to be in conformity with the provisions hereof; and any district organized under the provisions of the acts hereby repealed shall be subject in all respects to the provisions of this act; *and provided, further*, that such repeal shall not affect the tenure of office of the present members of the irrigation board and that neither such repeal nor anything in this act contained shall affect the right of said board to any funds heretofore appropriated for the use of said irrigation board, and all such funds heretofore appropriated shall be used by said board to the extent and for the purposes for which the same were appropriated.

### III. CAREY ACT COMMISSION ACT.

*An act in relation to the act of congress known as the Carey act, and all acts amendatory thereof and supplemental thereto, and giving authority to a commission in the investigation, selection, reclamation, control and disposal of all lands granted the state under the provisions thereof.*

(Approved June 4, 1915, Stats. 1915, p. 1140.)

#### Acceptance of conditions of act of Congress.

SECTION 1. The State of California hereby accepts the conditions of section four of an act of congress entitled, "An act making appropriation for sundry civil expenses of the government for the fiscal year ending June 30, 1894, and for other purposes," approved August 18, 1894, together with all the grants of land to the state under the provisions of the aforesaid act. The selection, reclamation and disposal of said land shall be vested in a commission which shall consist of the secretary of the department of natural resources, whenever such officer shall be appointed and until such appointment is made, one of the members of the state water commission to be named by said commission, the state engineer and the surveyor general and which commission shall hereafter be designated the "Carey Act Commission." The secretary of agriculture whenever such officer shall be appointed, and until such appointment, the dean of the college of agriculture of the University of California, and the president of the state water commission shall act as an advisory board to the said Carey act commission.

#### Organization of Carey Act Commission.

SEC. 2. The commission shall elect from among its members, a president and a secretary. The president of the commission shall preside at all meetings of the commission and shall have authority to call special meetings of the commission and he shall do so when requested by any one of the other members.

The secretary of the commission shall execute the will of the commission in all matters relating to this act. He shall have the custody of the records of the commission and shall receive and file all proposals for the construction of irrigation works to reclaim lands selected under the provisions of this act. The surveyor general shall be register of all lands which may be selected and shall keep for public inspection maps or plats on a scale not less than two inches to the mile of all lands selected, receive entries of settlers on these lands and hear or receive the final proof of their reclamation and do any and all work required by the commission in carrying out the provisions of this act, relating to the disposal of such lands. He shall have authority to administer oaths, whenever necessary, in the performance of the duties of register.

#### Reclamation of desert lands.

SEC. 3. Whenever it shall appear to the board of supervisors of any county that it would be advisable to reclaim by irrigation, under the provisions of this act, any desert public land, situated within such

county, such board may by appropriate resolution, petition the state engineer to make such an investigation as would determine the feasibility of such reclamation. Whereupon the state engineer shall make or cause to be made an investigation of such lands, and if it should be the opinion of the state engineer that it is feasible to reclaim by irrigation such lands, he shall report the fact to the commission, and, thereupon the commission shall direct the state engineer to make, when necessary, such further investigations as would determine the location and description of the lands, which may be thus reclaimed. The commission may make application to the United States department of the interior upon behalf of the State of California for the temporary withdrawal of such land, pending a more complete investigation and survey preliminary to the filing of the maps and plats and application for segregation.

#### **State engineer's investigation.**

SEC. 4. As soon as such temporary withdrawal of land shall have been made by the secretary of the interior, it shall be the duty of the state engineer to make an investigation of the water supply and make such surveys as will determine the feasibility of irrigating such lands and the approximate cost of the same. If it should appear from such investigation and surveys that the irrigation of the lands would not be feasible, the state engineer shall so report to the commission and it shall then be the duty of the commission to so notify the department of the interior, in order that such lands may be restored to the public domain; but, if the commission shall be satisfied that there is an adequate supply of water for the irrigation of such lands and that the construction of works for the irrigation of such lands is entirely feasible and the commission should decide that the state would be benefited through the irrigation and settlement of such lands, the commission shall direct the state engineer to make such additional investigations and surveys and prepare such plans as may be necessary to determine the cost of such works as would be needed to irrigate such lands and the commission may then enter into a contract on behalf of the State of California, with the United States, for the construction of such works as may be necessary for the proper irrigation of such land in pursuance of the act of congress known as the Carey act, and the rules and regulations of the department of the interior relating thereto; *provided, however*, that such project shall have first been approved by the state engineer, and by both members of the advisory board.

#### **State water commission and agricultural reports.**

SEC. 5. Before finally deciding as to the feasibility of irrigating lands under this act, the commission shall request the state water commission to report, in writing, their opinion as to whether or not an adequate supply of unappropriated water is available for the irrigation of such lands. It shall be the duty of the state water commission to make such report and recommendations in writing. At the same time and in the same manner the secretary of agriculture or the dean of the college of agriculture, as may be, shall be requested to report his opinion in relation to the land of such project as to its character and fertility, and as to soil or drainage problems then existing or which may follow



the irrigation of the lands, and if it should be his opinion that the value of such land, or any portion of such land, after irrigation would not fully justify the estimated cost of such irrigation, the commission shall not enter into a contract for the irrigation of any of the lands which may be adversely reported upon. All such written reports and advice shall be furnished to the commission free of charge.

#### Designation of project.

SEC. 6. Whenever a contract shall have been entered into by the commission with the United States department of the interior for the irrigation of desert public lands under the provisions of this act, the lands of such project shall be designated by the commission and be known as the ----- (name to be given) ----- state irrigation district, and the commission shall have the power and it shall be its duty to provide for the construction of the necessary works for the irrigation of such lands, to manage and conduct the business affairs of such district, to make and execute all necessary contracts of employment and appoint such agents, officers and employees as may be required and prescribe their duties. The commission and its agents and employees shall have the right to enter upon any land, to make surveys and locate the necessary irrigation works and the line for any canal or canals and the necessary branches for the same on any lands which may be deemed best for such location. Such commission shall also have the right to acquire by purchase, lease, contract, condemnation or other legal means all lands and waters and water rights and other property necessary for the construction, use, supply, maintenance, repair and improvements of said canal or canals and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters and all necessary appurtenances and also, where necessary or convenient to said ends, to acquire and hold the stock of other corporations owning waters, canals, waterworks, franchises, concessions or rights. Such commission may also construct the necessary dams, reservoirs and works for the collection and distribution of water for said district and do any and every lawful act necessary to be done that sufficient water may be furnished to all of the lands of such district for irrigation and domestic purposes. The said commission is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act in the name of the state in behalf of such state irrigation district to and for the uses and purposes herein expressed and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper, in order to fully carry out the provisions of this act or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act or acquired in pursuance thereof. And in all courts, actions, suits or proceedings the said commission may sue, appear and defend, in person or by attorneys and in the name of the state in behalf of such state irrigation district. It shall be the duty of said commission to establish equitable by-laws, rules and regulations for the distribution and use of water for the lands of such district, and for the administration and disposal of the lands

of such district, which must be printed in convenient form for distribution. Said commission shall have power, generally, to perform all such acts as shall be necessary to fully carry out the purposes of this act.

#### **Appropriation of water.**

SEC. 7. Whenever it shall appear to the commission that the irrigation of public land of a proposed state irrigation district under the provisions of this act would be feasible and that an adequate supply of water exists and is available for the purpose, it shall be the duty of the commission to appropriate in the name of the State of California for such state irrigation district an amount of unappropriated water as may be available and necessary for the irrigation of such land, such appropriation to be made in pursuance of the provisions of the water commission act and acts amendatory thereof, and the rules and regulations of the state water commission; but no fees shall be paid to the state water commission for any services which may be rendered by such commission in connection with any permit or license which may be granted under any such appropriation; but such charge as may be provided by law for the diversion of water for irrigation shall be paid to such state water commission as soon as any of the water thus appropriated shall be diverted for use upon the land of any district and for the quantity of water thus diverted.

#### **Raising additional money.**

SEC. 8. For the purpose of constructing necessary irrigation canals and works and acquiring the necessary property and rights therefor and for the purpose of acquiring waters, water rights and other property necessary for the purposes of a state irrigation district and otherwise carrying out the provisions of this act, the commission may as soon after a contract has been entered into with the United States for the irrigation of the lands of a district and also whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefor and it is necessary to raise additional money for such purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary for such purposes or any of them said commission shall cause such surveys, examinations, drawings and plans to be made of a district as shall furnish the proper basis for an estimate of the cost of irrigating the lands of such district. All such surveys, examinations, drawings, plans and the estimate of cost based thereon shall be made by or under the direction of the state engineer and shall be certified by him and a report of such irrigation plans shall be prepared by him which report shall contain a description of the lands to be irrigated, the works to be constructed and shall also state his conclusions as to the supply of water available for the use of the district. The estimated cost of a project under this act shall include in addition to the cost of the works proposed and the purchase of land and other rights of way needed for their construction and for the use of such district, the estimated discounts or cost of credit which it would be necessary to establish; interest during the period of construction; overhead and other carrying charges and reasonable contractor's profit commensurate

with the risks involved; and the total estimate thus obtained shall be the estimated reasonable expense of irrigation or the "irrigation charge" against the lands to be irrigated. After receiving such report the commission, if it shall be convinced and shall declare by resolution that the supply of water available for the use of the district is sufficient for all purposes and that the said project is in all other respects feasible, shall make an order determining the amount of bonds that should be issued in order to raise the amount of money needed for the purpose or purposes for which said bonds are desired; and, said bonds may be issued as provided by this act and when so issued shall constitute a lien or liens against the lands of a district to be thus reclaimed as contemplated by the act of congress, approved June 11, 1896, (29 Stats. 413-434) and shall be valid on and against the separate legal subdivisions of land thus reclaimed and irrigated, for the actual cost and necessary expense of reclamation and reasonable interest thereon from the date of reclamation until disposed of to actual settlers; and, after the reclamation and settlement of any lands thus reclaimed such bonds shall remain a lien against such lands and shall be superior and prior to any other lien which may be created until paid, and the commission is hereby authorized to issue bonds under such lien to be secured by the same and may, from time to time, as provided in section nine of this act, sell said bonds, the proceeds to be used only for the reclamation of such lands, such total issue of bonds to have a par value not to exceed the total estimated irrigation charge against the lands of such district.

#### **Sale of bonds.**

SEC. 9. The commission may sell such bonds, from time to time, and in such quantities as may be necessary and most advantageous to raise money for the construction of such canals and works, the acquisition of property and rights, or the acquisition of any water or water rights or otherwise to fully carry out the objects and purposes of this act. Before making any such sale, the commission shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes and notice of the sale to be given by publication thereof, for at least three weeks, in some newspaper published in the county in which the district is situated and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the commission at their office for the purchase of bonds till the day and hour named in the resolution. At the time appointed the commission shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest bidder or bidders; *provided, however*, that they may reject any or all bids.

#### **Assessments.**

SEC. 10. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be not available for the completion of the plan of canal and works adopted and the acquisition of the necessary property, waters and water rights therefor and additional bonds be not



voted, it shall be the duty of the commission to provide for the completion of said plan and the acquisition of such necessary property, waters and water rights by levy of assessments therefor on or before the first Monday in August in each year, and the commission shall levy an assessment against all the land included in a district which may be subject to assessment to raise the annual interest on the outstanding bonds of such district; and, in any year in which any bond shall fall due it must increase such assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature and pay the cost of operating and maintaining the canal system of the district; also sufficient to pay in full all sums due or that shall become due from the district before the time of levying the next annual assessment on account of rentals or charges for lands, water, or water rights acquired by said district under lease or contract; also sufficient to pay in full the amount of any other contract or obligation of the district which shall have been reduced to judgment; *provided, also*, that the commission shall have authority to charge a toll or rental for the delivery of water in an amount sufficient to pay the cost of operating and maintaining the canal system; or, such expense may be met by both assessment and tolls in such proportion as the commission might decide would be most advantageous to the land owners of such district.

#### Series of bonds.

SEC. 11. All bonds issued under the provisions of this act shall be payable in gold coin of the United States in twenty series, as follows, to wit:

At the expiration of twenty-one years from the date of any issue of the said bonds, two per centum of the whole amount of such issue; at the expiration of twenty-two years from said date two per centum of the whole amount of such issue; at the expiration of twenty-three years from said date, three per centum of the whole amount of such issue; at the expiration of twenty-four years from said date three per centum of the whole amount of such issue; at the expiration of twenty-five years from said date four per centum of the whole amount of such issue; at the expiration of twenty-six years from said date four per centum of the whole amount of such issue; at the expiration of twenty-seven years from said date, four per centum of the whole amount of such issue; at the expiration of twenty-eight years from said date four per centum of the whole amount of such issue; at the expiration of twenty-nine years from said date, five per centum of the whole amount of such issue; at the expiration of thirty years from said date, five per centum of the whole amount of such issue; at the expiration of thirty-one years from said date, five per centum of the whole amount of such issue; at the expiration of thirty-two years from said date five per centum of the whole amount of such issue; at the expiration of thirty-three years from said date six per centum of the whole amount of such issue; at the expiration of thirty-four years from said date six per centum of the whole amount of such issue; at the expiration of thirty-five years from said date six per centum of the whole amount of such issue; at the expiration of thirty-six years from said date six per centum of the whole amount of such issue; at the expiration of thirty-seven years from said

date, seven per centum of the whole amount of said issue; at the expiration of thirty-eight years from said date seven per centum of the whole amount of such issue; at the expiration of thirty-nine years from said date, eight per centum of the whole amount of such issue; at the expiration of forty years from said date, eight per centum of the whole amount of such issue.

While the foregoing several enumerated percentages are of the entire amount of the bond issue, each bond must be made payable at a given time for its entire amount and not for a percentage. The date of the issue of any bond authorized under this act shall be deemed to be the apparent date of issue of the said bonds appearing upon the face thereof, which date shall be subsequent to the date of the resolution of the commission authorizing the issue of the said bonds and prior to the date of actual delivery of said bonds to the purchaser thereof. Said bonds shall bear interest at a rate to be determined by the commission, but not exceeding six per cent per annum, payable semi-annually on the first day of January and the first day of July of each year. Principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred (\$100) dollars nor more than one thousand (\$1,000) dollars as the commission may determine. They shall be negotiable in form, signed by the president and secretary of said commission and the seal of the commission shall be affixed thereto. Each issue shall be numbered consecutively as issued and the bonds of each issue shall be numbered consecutively and bear date at the time of their issue. Coupons for the interest shall be attached to each bond signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval and also stating the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received and the name of the purchaser. The provision of this section defining what shall constitute the date of issue of bonds shall apply to any and all bonds issued in pursuance of this act.

#### **Payment of interest and principal.**

SEC. 12. Upon the presentation of the coupons due on bonds issued against the land of any said irrigation district to the state treasurer he shall pay the same from the bond fund of such district. Whenever such fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the commission may direct the treasurer to pay such an amount of such bonds due as the money in said fund will redeem at the lowest value at which they may be offered for liquidation after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of such bonds. Said proposals shall be opened by the commission in open meeting at a time to be named in the notice and the lowest bid for said bonds must be accepted; *provided*, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed as herein provided for said money shall be invested by the state treasurer under direction of

the commission in United States bonds or the bonds of the state which shall be kept in the bond fund of such district and may be used to redeem such district bonds whenever the holders thereof may desire.

#### **Annual assessment.**

SEC. 13. The bonds issued and the interest thereon shall be paid by revenue derived from an annual assessment upon the land of the district against which such bonds may have been issued on the basis provided in section nineteen of this act and all the land in such district shall be and remain liable to be assessed for such payments as herein provided.

#### **District superintendent.**

SEC. 14. The commission shall have power to appoint a representative of any state irrigation district who shall reside within the limits of such district, and who may be empowered to act for the commission in all matters relating to the affairs of such district; the commission shall fix his compensation and he shall hold office at the pleasure of such commission. Before assuming the duties of such office, such representative shall execute an official bond in a sum not to exceed fifty thousand dollars and not less than ten thousand dollars. Such official bond shall be in the form prescribed by law for the official bonds of county officers. Such representative may be given authority to represent such commission during the construction of the works; to receive applications for the entry of land under the provisions of this act; receive annual and final proofs and issue certificates relating to the same. He may be empowered to prepare the annual assessment rolls and collect and receive such assessments on behalf of such commission. Such representative of the commission shall be designated "District Superintendent." The commission is hereby authorized to appoint a district advisory board of any state irrigation district, consisting of three members who shall be residents of such district and who shall hold office at the pleasure of the commission and shall serve without compensation. The commission is hereby empowered to extend such authority to such district advisory board as may be deemed for the best interests of such district.

#### **Bids on construction of works.**

SEC. 15. When the commission shall have made an estimate of the cost of a project, it shall invite bids or proposals for the construction of the necessary works by publication, for a period of six weeks in not more than six newspapers of weekly issue as in the opinion of such commission would be most likely to bring the matter to the attention of persons best able to undertake the construction of the works proposed. Such notice shall contain a brief description of the works proposed, the volume and kind of material to be moved, the kind of structures to be built, and the total estimated cost of the project and the place or places where plans, estimates and specifications can be inspected. Such bids or proposals shall be received by the commission on the day and hour stated in the publication and such commission shall thereupon examine all such bids or proposals as may be submitted and



shall accept the proposal of the lowest and most responsible bidder, provided the price at which it is proposed such work would be constructed is not greater than the total estimated cost of such project as prepared by such commission or such commission may reject any or all of such bids. If the price submitted for the construction of such works should be greater than the total estimated cost prepared by the commission, the commission shall arrange for a public hearing and may summon witnesses to testify as to the reasonableness of any price or terms which may have been submitted or may receive other proposals and the commission may, after a careful consideration of all evidence which may be submitted and representations that may be made at such hearing, accept a proposal for a price greater than the estimated cost of the project prepared by such commission. Each bid or proposal that may be submitted shall be accompanied by a certified check made payable to the commission, equal in amount to two per cent of the estimated cost of such project, which check shall be forfeited to such commission if the individual, firm, association or corporation submitting such bid or proposal shall, after its acceptance by the commission, refuse to enter into a contract with the commission for the construction of the works of such project as provided by the general terms of such proposal and such commission shall deposit with the state treasurer the amount thus forfeited and the state treasurer shall place the same to the credit of the bond guarantee fund created under the provisions of section thirty-eight of this act; *provided, further*, that no proposal for the construction of irrigation work shall be accepted until the commission shall have satisfied itself that the individual, firm, association or corporation submitting the same is financially able to carry the undertaking to completion within the time specified and under the terms provided and for the amount agreed to in such proposal.

#### **Contract for construction of works.**

SEC. 16. The individual, firm, association or corporation, whose proposal for the construction of the works of any irrigation project to be constructed under the provisions of this act has been accepted by the commission shall, within a period of thirty days from the date of such acceptance be prepared to enter into a contract with such commission for the construction of such works in accordance with the plans, specifications and terms upon which the acceptance of such proposal is based, such contract to be accompanied by a satisfactory bond on the part of the proposed contractor for the construction of such works, which bond shall be in a penal sum equal to fifteen per cent of the estimated cost of the works and shall be conditioned for the faithful performance of the provisions of the contract with the State of California, but the commission shall have the authority to extend the time of entering into such agreement, but such time shall not be extended more than ninety days from the date of the acceptance of such proposal. The plans, specifications and terms upon which the accepted proposal is based, shall be made a part of the contract; the time for the completion of the works shall also be stated, which shall not be more than five years from the date of the acceptance of the proposal; but, in the case of works of great magnitude the commission shall have authority to extend the time for completion not exceeding two years.

All contracts shall state that work shall begin within three months from the date of the contract and that such work shall be prosecuted diligently and continuously and at a rate commensurate with the magnitude of the undertaking and which would, at all times, insure its completion by the time agreed to in such contract; *provided, further*, that if there shall be an interruption of work on any of the controlling features of such project, as may be determined by the state engineer, caused by flood, storms, or other natural causes, the commission may grant an extension equal to such delay. All work to be done under the provisions of this act shall be in pursuance of plans and specifications to be prepared by the state engineer and all such work shall be under his supervision and shall be completed to his satisfaction. A failure to complete the works within the time required by the contract or an extension thereof as herein provided shall forfeit to the state all rights under the same.

#### **Failure to begin on time.**

SEC. 17. Upon the failure of any parties having a contract with the state for the construction of irrigation works to begin the same within the time specified by the contract or to complete the same within the time or in accordance with the specifications of the contract to the satisfaction of the commission, it shall be the duty of the commission to give such parties written notice of such failure and if after a period of thirty days from the sending of such notice, they shall fail to proceed with the work or to conform to the specifications of their contract with the state, the bond and contract of such parties and all work that may have been performed under such contract and all the material entering therein or which may be delivered or the works constructed or to be constructed thereunder shall be at once and thereby forfeited to the state; and it shall be the duty of the commission at once to so declare and give notice once each week for a period of four weeks in some newspaper in general circulation in the county or counties in which the work is situated and in one newspaper at the state capital, in like manner and for a like period of the forfeiture of such contract and that upon a fixed day, proposals will be received at the office of the commission for the completion of such contract and the time for receiving said proposals shall be at least sixty days subsequent to the issuing of the last notice of forfeiture. And the commission shall have authority to accept a proposal for such completion and may enter into a contract for the same as in the case of an original proposal; and if by reason of a failure or forfeiture under a contract or for any other cause the total cost of a project should exceed the original estimated irrigation charge, the commission shall have the authority to make such equitable distribution or addition of any such excess or increased cost to any or all of the farm units of such district as, in the judgment of such commission may be deemed just and such adjusted or increased irrigation charge shall, thereafter, be the basis for all assessments against such farm units as contemplated by the provisions of this act.

#### **Payments to contractor.**

SEC. 18. The contract for the construction of works of a district shall provide that payments shall be made to the contractor only as

lands are open to entry from time to time and there shall be due and payable at such times only such amounts as would equal the total irrigation charge against such land as shall have been provided with means of irrigation.

#### Classification of lands.

SEC. 19. As soon as the estimated irrigation charge shall have been determined, it shall be the duty of the state engineer to make a classification of the lands of such district, dividing it into farm units and noting the location and area of the irrigable and non-irrigable land of each of such farm units, which may be of varying size, but none of such farm units shall be greater than one hundred sixty acres or less than twenty acres and he shall charge the irrigation charge or cost of the project against such farm units in the proportion of the benefits which it is estimated would be derived by each of such farm units from the construction of such works; and the amount thus charged against any farm unit, or the proportion which such charge bears to the total cost of such project, shall be the basis of assessment during the period of construction and when construction is completed and the irrigation charge is finally adjusted shall be and remain the basis of all assessments which may thereafter be made against such farm units under the lien that may be created against any or all of the lands of such project in pursuance of the provisions of this act, and of the act of congress approved June 11, 1896. (29 Stats. 413-434.)

#### Map filed with recorder.

SEC. 20. Whenever the commission shall decide to proceed with the construction of works for the irrigation of the lands of a state irrigation district and to issue bonds for the payment of the same, and before any of such lands shall be open for entry, the commission shall file for record in the office of the county recorder, in the county or counties in which such lands may be situated, a map on tracing linen, on a scale not less than two inches to the mile, on which shall be shown the lands of such state irrigation district that are to be irrigated, subdivided into farm units, together with a list of such farm units; and there shall be noted on such map in each farm unit subdivision and on such list of lands the irrigation charge which has been made against each of such farm units, which charge shall serve as a basis for assessments as provided in section nineteen of this act. And there shall also be recorded a certified copy of the resolution of the commission providing that such irrigation charge shall become a lien against the lands of the district and the subdivisions thereof on the basis indicated on such map and list; also a certified copy of the resolution or resolutions providing for the issuing of bonds for the construction of such works shall be filed for record by the commission with such recorder or recorders. Any owner of private lands, situated within the limits of a project to be constructed under the provisions of this act may have such lands included in such project, by entering into an agreement with the commission, which agreement shall provide that an equitable portion of the cost of such works shall be charged against such land on the same basis and in the same manner followed in the case of the public lands of the project and that any area of land in private



ownership, which it may be desired to thus include, in excess of any farm unit area which shall be decided by the commission and not to exceed one hundred sixty acres, shall be subdivided by the state engineer into farm units and sold by the commission at a price and on terms to be agreed to with the commission, the price at which such land may be sold to be not greater than two and one-half times its assessed value at the time such agreement is made; and such owner shall also agree that the cost of irrigation shall be a first lien against his land, the terms of such lien to be the same in every respect as the lien which may be created against the public land of the project; and he shall execute a mortgage against such land as would enable the commission to establish such a lien; also that such land shall be incorporated into and be subject to all assessments which may be made by order of such commission; and, when the owner of any privately owned lands shall have thus entered into such contract the commission may, if it shall be deemed to be the best interests of the project, declare such privately owned lands a part of the project and of the state irrigation district, which is to be created or may have been created and shall indicate each unit of such lands, with the irrigation charge noted, on the map of such district and shall add such lands to the list of lands to be recorded as herein provided.

#### **Amended maps on completion of works.**

SEC. 21. Upon the final completion of the works of a project the commission shall file for record with the county recorder of the county or counties in which the project is situated, an amended map of the project and a list of all lands on which shall be noted the irrigation charges as they may finally be adjusted by the commission, together with appropriate resolutions in relation thereto, and such amended map and list and resolution shall then become the final basis of all future assessments to be made against the lands of such project in carrying out the provisions of this act; and, the recorder of a county in which such project or any portion of a project is situated shall at the request of the commission receive and record all resolutions of the commission relating to the creation of a lien against the lands of a state irrigation district and the list of the lands thereof and shall file in a plat book to be provided for such purpose all the maps and plats of the lands of such district that may be offered for record.

#### **Assignment of entry.**

SEC. 22. No entry of land made under the provisions of this act shall be assignable except to the State of California, and shall not be re-entered until at least sixty days after such assignment and not until the register has by publication, once each week for a period of four weeks in a newspaper published in the county in which such land is situated and in another newspaper of general circulation to be selected by the register advertised that such land will be open to re-entry at the office of the commission or its agent in the county in which such land is situated at an hour and date which shall be not less than fifteen nor more than thirty days subsequent to the last date of such publication and describing such land and the appraised value of any improvements

which may have been placed upon the same as determined by the commission and stating that the right to re-enter any such farm unit or units will be awarded to the highest qualified bidder for the same; and the commission shall not be obliged to return to the previous entryman all or any portion of any amount which may thus be received from the sale of the improvements which may have been placed upon such entry by him, the value of which shall have been appraised, but the commission may place any or all of the money thus received in the bond guarantee fund of such district. The commission shall cancel any entry for non-compliance with the provisions of this act relating to the payment of tolls, water rentals or assessments or for failure to cultivate or reside upon such entry in the manner provided by this act and in accordance with the rules and regulations in relation to the same as may be provided by such commission, and, in the event of such cancellation such entry shall be re-entered in the manner herein provided.

#### Entryman to become resident.

SEC. 23. Within six months after entering land under the provisions of this act the entryman shall become an actual and bona fide resident upon such land and shall continue to reside upon such land during at least six months of each year until patent shall have been granted to him for the land embraced in such entry. And within the irrigation season next following the date of entry of land the entryman shall prepare for irrigation and shall irrigate and cultivate to crops twenty-five per cent of the irrigable area of such entry and during the second irrigation season he shall prepare for irrigation and shall irrigate and cultivate to crops one-half of the irrigable area of such entry; and, during the third irrigation season he shall prepare for irrigation and shall irrigate and cultivate to crops seventy-five per cent of the irrigable land of such entry. Such classification as to irrigability to be made by the state engineer, as provided in section nineteen of this act. Four years from the date of entry the entryman shall offer final proof of residence upon and cultivation of his entry before the register or a representative of such register in the county in which such land is situated and if such final proof is accepted the commission shall issue a patent in the name of the state to such entryman; *provided*, that at the time of such final proof seventy-five per cent of the irrigable area of such entry shall have been prepared for irrigation and shall be irrigated and cultivated. The commission shall provide suitable rules for the filing of proposals for constructing irrigation works and for the entry of and the payment for the land by settlers; for offering annual and final proof and for the forfeiting of entry upon failure to comply with the provisions of this act, and in relation to other duties and obligations of the entryman in carrying out the provisions of the act. Such rules and regulations shall be designed to carry out the chief purpose of this act which is that speculation in such lands may be prevented and that they may be entered by actual settlers who will put them to the beneficial use intended so repayment of the cost of reclamation may be assured.

**Order of construction of works.**

SEC. 24. The construction of all irrigation works of a state irrigation district shall be prosecuted in regular order beginning at the upper end of such district to be irrigated and continuing towards the lower end, and all diverting works, main canals, laterals and structures shall be completed as such work proceeds, so that all the land tributary thereto may be irrigated and whenever irrigation facilities shall have been completed for the irrigation of one-fifth of the area of an irrigation district the commission shall accept such works, provided they shall have been completed to the satisfaction of the state engineer; and thereupon the commission shall, within thirty days from such acceptance declare open to public entry such portions of the lands of such project as have been provided with irrigation facilities and for which water is available for irrigation; and it shall be the duty of the commission, by publication once each week in some newspaper of the county in which such lands are situated and one newspaper each in Sacramento, San Francisco, and Los Angeles, for a period of four weeks to give notice that said land is open for settlement, the price for which said land will be sold to settlers by the state and the average irrigation charge against such land and the terms of payment; also any privately owned lands which may be held under contract for sale by the commission and the price at which such land will be sold to actual settlers and the terms of the same; and, from time to time thereafter as works are completed for the irrigation of the lands of such district such works shall be accepted and such land shall be thrown open to entry; but each of the first four public openings of lands of a district shall contain an area not less than one-fifth of the total area of the district unless one of such openings shall include all the remaining lands of such district.

**Qualifications of applicants.**

SEC. 25. Any citizen of the United States or any person having declared his intention to become a citizen of the United States, excepting married women, unless head of a family, over the age of twenty-one years, may make application, under oath to the register, or his agent, to enter a single farm unit and such application shall set forth that the person desiring to make such entry does so for the purpose of actual reclamation, cultivation and settlement in accordance with the act of congress and the laws of this state relating thereto, and that the applicant has never received the benefit of the provisions of this act and that such application is made subject to such rights of way as may be deemed necessary by the commission for the construction of irrigation works and their proper operation and maintenance thereafter, and to all the provisions of this act with respect to the lien against such land which may have been created or may be created by the authority of the commission, and subject to the authority of the commission in all matters relating to the levying and collecting of assessments, tolls and water rentals of every kind and subject to the authority of the commission in relation to the control and operation of the irrigation system. All applications for entry shall be accompanied by a payment of one dollar per acre, which will be returned to the applicant if the applica-



tion is not allowed. If the application is allowed a certificate shall be issued to the applicant and all certificates when issued shall be recorded in a book to be kept for that purpose. The commission will dispose of all lands accepted by the state under the provisions of this act, at a uniform price of one dollar per acre. The application shall also be accompanied by any amounts or charges which may have been assessed against such land and which are due and payable; also by a payment of not less than ten per cent, nor more than twenty per cent of the irrigation charge made against the farm unit applied for, as the commission, in its discretion may decide, and such payment shall be a uniform percentage of such irrigation charge against all the lands of such district and such payment shall be deposited by the commission with the state treasurer, in a fund to be known as the ----- state irrigation district bond guarantee fund to be employed by the commission as provided by section thirty-eight of this act, and a similar payment shall be made by the owner or holder of any privately owned land which may have been included in such district and by the purchaser or purchasers of any of such land which may be sold by the commission under contract provided in section twenty of this act and the payment thus made shall also be placed in such bond guarantee fund; *provided*, in the case of such private lands the payment of such percentage of the irrigation charge shall be made at the time such lands are included in such district or when such lands are sold by the commission or under its authority.

#### Assessments based on irrigation charge.

SEC. 26. On or before the first Monday in August in each year the commission shall prepare or cause to be prepared a list of assessments to be levied under the provisions of this act, such assessments to be based upon the irrigation charge made against the lands of such district on the basis provided in section nineteen of this act. Such commission shall compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected the assessment shall be paid by the commission into the office of the state treasurer, there to be apportioned to the several funds as herein provided. The assessment upon the lands of the district is a lien against the property assessed from and after the date of such assessment and the lien for the bonds and other charges of such district shall be a preferred lien and superior to any other lien which may be created and such lien shall not be removed until the assessments are paid or the property sold for the payment thereof.

#### Notice of assessments due.

SEC. 27. On or before the first day of September the commission shall publish a notice in the newspaper of general circulation published in each county in which any portion of the district may lie that such assessments are due and payable and will become delinquent at six o'clock p.m. on the last Monday of October next thereafter and that unless paid prior thereto ten per cent will be added to the amount thereof and also the time and place at which payment of assessments

may be made, which notice shall be published for the period of two weeks. The commission or its representative must attend at the time and place specified in the notice to receive assessments which must be paid in gold or silver coin. He must mark the date of payment of any assessment in the assessment book opposite the name of the person paying and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed; and on the last Monday in October at five p.m. of each year if unpaid assessments are delinquent and thereafter the commission must collect thereon for the use of the district an addition of ten per cent.

#### **Publication of delinquent list.**

SEC. 28. On or before the first day of December the commission shall publish the delinquent list which must contain the names of the persons and the description of the property delinquent and the amount of the assessments and costs due, opposite each name and description. There shall be appended to and published with the delinquent list a notice that unless the assessments delinquent, together with costs and percentage are paid the property upon which such assessments are a lien will be sold at public auction. If the land on which such assessment is delinquent is held under a possessory right under the provisions of this act, such publication shall state that such possessory right is subject to cancellation by the commission, and if the assessments against such land are not paid within sixty days from the date of such delinquency such right shall be cancelled and the land offered for re-entry in the manner provided by section twenty-two of this act. The publication must be made once a week for three successive weeks in a newspaper of general circulation published in the county in which the property delinquent is situated, but if any property assessed to the same person shall lie in more than one county then such publication may be made in each county in which any portion of such property may lie. The publication must designate the time and place of sale; the time of sale must be not less than twenty-eight days from the first publication and the place must be at some point designated by the commission within the district; *provided, however*, that if there should occur any error in the publication of the sale of the delinquent property which might invalidate a sale made thereunder and such error is discovered prior to the sale thereunder, the commission shall at once republish the sale of the property affected by such error, making such publication conform to the provisions of this act and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication and the place of sale must be at some point designated by the commission within the district and stated in such republication.

#### **Collections in addition to assessments.**

SEC. 29. The commission must collect in addition to the assessments due on the delinquent list and ten per cent added, fifty cents on each lot, piece or tract of land separately assessed. On the day fixed for the sale or some subsequent day to which the commission may have

postponed it, notice of which must be given, the commission or their representative, between the hours of ten o'clock a.m. and three o'clock p.m. must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically or in numerical order of the lots or blocks until completed. The commission may postpone the day of commencing the sale from day to day, but the sale must be completed within three weeks from the day first fixed.

#### **Sale certificate.**

SEC. 30. After receiving the amount of assessments and costs the commission must make out, in duplicate, a certificate dated on the day of sale, stating when known the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the commission or its representative and one copy delivered to the purchaser and the other filed in the office of the county recorder of the county in which the land is situated.

#### **Record of land sold.**

SEC. 31. The commission or its representative before delivering any certificate must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names and amount paid, regularly number the description on the margin of the book and put a corresponding number on each certificate. Such book must be open to public inspection without fee during office hours when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests in the purchaser and is only divested by the payment to him or to the commission for its use of the purchase money at two per cent per month from the day of sale until redemption.

#### **Assessment book, etc., as evidence.**

SEC. 32. The assessment book or delinquent list or a copy thereof certified by the commission or its representative showing unpaid assessments against any person or property is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

#### **Sale of part of land.**

SEC. 33. The owner or person in possession of any property offered for sale for assessments due thereon may designate in writing to the commission prior to the sale what portion of the property he wishes sold, if less than the whole. But if the owner or possessor does not, then the commission may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest and pay the assessments and costs due, including two dollars for the duplicate certificate of sale is the purchaser. If the purchaser does not pay the assessments and costs



before ten o'clock a.m. the following day the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale then when the property is offered thereafter for sale and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the commission as the purchaser and a certificate of sale shall be issued therefor. The commission as a purchaser at such sale shall be entitled to the same rights as a private owner and the title so acquired by the commission, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of such commission; *provided*, that authority to so convey must be offered by resolution of the commission, entered on its minutes, fixing the price at which such sale may be made and such conveyances shall not be made for a less sum than the reasonable market value of such property.

#### Redemption of property.

SEC. 34. A redemption of the property sold may be made by the owner or any party in interest within one year from the date of purchase or at any time thereafter before a deed has been made and delivered. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes and when made to the commission it shall credit the amount paid to the person or his assignee. On receiving the certificate of sale the county recorder must file it and make an entry in the book similar to that required of the commission. On the presentation of the receipt of the person named in the certificate or of the commission for its use, of the total amount of the redemption money the recorder must mark the word "redeemed," the date and by whom redeemed on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein specified the commission upon demand must make to the purchaser or his assignee a deed of the property reciting in the deed substantially the matters contained in the certificate and that no person redeemed the property during the time allowed by law for its redemption; *provided*, that where the property has been sold to the commission it may be redeemed as herein provided, at any time before the commission has disposed of the same. The commission shall receive from the purchaser for the use of the district two dollars for making such deed.

#### Recital in deed.

SEC. 35. The matter recited in the certificate of sale must be recited in the deed and such deed duly acknowledged or proved is prima facie evidence that, (a) the property was assessed as required by law; (b) that the assessments were levied in accordance with law; (c) the assessments were not paid; (d) at the proper time and place the property was sold as prescribed by law and by the proper officer; (e) the property was not redeemed; (f) the person who executed the deed was the proper officer.

Such deed, duly acknowledged, or proved, is (except for actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the commission to the execution of the deed. The deed

conveys to the grantee the absolute title to the lands described therein, free of all incumbrances, except when the land is owned by this state in which case it is prima facie evidence of the right of possession.

**Mistakes do not render sale void.**

SEC. 36. When land is sold for assessments properly imposed, as the property of a particular person, no misnomer of the owner or supposed owner or other mistake relating to the ownership thereof affects the sale or renders it void or voidable.

**Legal title vested in state.**

SEC. 37. The legal title to all property acquired under the provisions of this act shall immediately, and by operation of law vest in the State of California, and shall be held in trust for and is hereby dedicated and set apart to the uses and purposes of the state irrigation district for whose benefit such property or rights may have been acquired and said commission is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property as herein provided. Said commission may determine by resolution duly entered upon their minutes, that any property, real or personal, held for any state irrigation district is no longer necessary to be maintained for the uses and purposes thereof, and may thereafter sell such property and a conveyance of any property thus held for any irrigation district, executed by the president and secretary thereof, in accordance with the resolution of such commission, when sold for a valuable consideration, shall convey good title to the property so conveyed.

**Disposition of entryman's payments.**

SEC. 38. All payments received from entrymen at the time of entry on account of the irrigation charge against the lands of a district shall be placed by the commission with the state treasurer, in a fund to be known as the bond guarantee fund of the ----- state irrigation district and shall be available for the payment of assessments which may have become delinquent from time to time or for the payment of assessments against unentered land. Any one applying to enter land on which any assessment has been paid from such guarantee fund shall pay to the commission such assessment or assessments before the commission shall receive such application and the amount thus paid shall be deposited by the commission to the credit of such guarantee fund.

**Fund available for delinquent assessments.**

SEC. 39. The bond guarantee fund of any said irrigation district which is provided for in section thirty-eight of this act shall be available for the payment of delinquent assessments until the completion of the works of such district. After such completion if such delinquency does not exceed in any one year five per cent of the total of the assessments, tolls and water rentals for such year such fund may be employed by the commission in the payment of assessments which may be levied for the payment of the interest or principal of the bonds or of both interest and principal and no further assessments for such purpose need be collected until such fund shall have thus been exhausted.

**Deposits in state treasury.**

SEC. 40. All moneys deposited with the state treasurer by the commission shall be placed to the credit of the several funds of a state irrigation district, as may be directed by such commission; and the state controller is hereby authorized and directed to draw warrants upon such funds, from time to time, upon the requisition of the commission, approved by the state board of control, and the state treasurer is hereby authorized and directed to pay such warrants, but all payments due on the bonds of any such district shall be paid by the state treasurer when due from the bond fund of such district without such authorization.

**Expenses of commission and warrants for work done.**

SEC. 41. As provided in the act of congress, known as the Carey Act, all moneys received by the commission from the sale of lands selected under the provisions of this act shall be deposited with the state treasurer and such sums as may be necessary shall be available for the payment of the expenses of the commission, the register, and of the state engineer's office, incurred in carrying out the provisions of this act. And the state controller is hereby authorized and directed to draw warrants upon such sum from time to time upon the requisition of the commission approved by the state board of control and the state treasurer is hereby authorized and directed to pay such warrant for the work performed under the direction of the commission, the register and the state engineer and any balance remaining over and above the expenses necessary to carry out the provisions of this act shall constitute a trust fund in the hands of the state treasurer to be used only for the reclamation of other arid lands.

**Duties of register.**

SEC. 42. The register shall be the custodian of all papers, documents, maps and plats relating to the disposal of said lands and shall receive and receipt for all fees and payments required to be made under the provisions of this act or any rule or regulation of said commission, and shall deposit the same with the state treasurer to the credit of the land reclamation trust fund; he shall conduct all correspondence relating to such lands, after they shall have been segregated and perform such other duties in the premises as may be required. The president of such commission is hereby named as the authorized agent of the state to enter into and to execute for and in behalf of the state, the agreement prescribed by the secretary of the interior binding the state in respect to the disposal of lands under the Carey act, such contract to be attested by the state engineer and approved by the governor.

**Fees.**

SEC. 43. The following fees shall be collected by the commission under the provisions of this act and deposited with the state treasurer to be placed in the land reclamation trust fund; for filing each application of entry, two dollars; for taking evidence of annual proof of cultivation, one dollar and fifty cents; for issuing each certificate of location, one dollar; for issuing each patent, one dollar; for making certified copies of papers or records, twenty cents per folio for the



original and five cents per folio for each carbon copy thereof by the same applicant.

#### Disposition of proceeds.

SEC. 44. Subject to the provisions of the act of congress, approved August 18, 1894, the proceeds derived by the state from fees and the sale of desert public lands, and by this act required to be deposited in the land reclamation trust fund, shall be subject to control and disposition by said commission, from time to time, for the following purposes, and for none other:

*First*—For the payment of expenses necessary to the administration and conduct of said commission;

*Second*—For the reclamation by and under the control and direction of the commission, of desert lands in the state, or in co-operation with the United States;

*Third*—For such experimentation in agriculture, horticulture and forestry as shall aid in the reclamation of the desert lands of the state;

*Fourth*—For such advertisement and publicity of the desert lands of the state as may advance their settlement and reclamation.

#### Monthly accounting.

SEC. 45. On the first Monday in each month the commission shall account for all moneys collected for assessments and pay the same over to the state treasurer and file in the office of such treasurer a statement showing an account of all such transactions and receipts since the last assessment and that all moneys collected by such commission has been thus deposited.

#### Investigations of commission.

SEC. 46. The commission is hereby authorized to investigate the costs, supply, and irrigation resources of the state and the feasibility of irrigating public and other lands in this state in co-operation with the United States; *provided*, the cost of such investigations shall be shared equally by the state and the United States and that such co-operation work shall be done under the joint supervision and direction of the commission and a representative of the United States and any surveys, maps, plans, estimates and reports relating to such investigation shall be placed at the disposal of the state; *provided, also*, that the commission is hereby authorized to co-operate with the United States for the construction of the works of any state irrigation district that may be undertaken under the provisions of this act but such co-operative work shall not in any way involve the credit of the state.

#### Annual report.

SEC. 47. The commission at the close of each fiscal year shall submit a report, in detail of the transactions under this act to the governor and on its approval, such number of copies thereof shall be printed for gratuitous distribution as may be deemed necessary; but all pending proceedings before the commission and the state water commission, shall not be made public or be opened to public inspection until the application for temporary withdrawal or segregation is filed in the United States land office.

**Attorney general legal advisor.**

SEC. 48. The attorney general shall be the legal advisor of the commission in matters relating to this act and shall represent or shall cause the state to be properly represented in all suits, actions, contests, or controversies relating to or involving the rights or interests of the state under the provisions of this act, before the several land officers in this state, before the general land officer at Washington, D. C., and before the courts of this state and of the United States, and may employ a competent attorney or attorneys for that purpose, who shall be paid out of any fund which may be available for such purpose to the credit of any state irrigation district or from any general appropriation which may be available for such purpose. And the district attorney of any county or counties in which any state irrigation district may lie shall represent the commission in any action which may be brought or which may be defended by the commission in the courts of such county or counties when so directed by the attorney general and he shall not receive any additional compensation for such services, but shall be allowed such reasonable and necessary expenses which may be incurred by him while performing such service.

**State not liable.**

SEC. 49. Nothing in this act shall be construed as authorizing the commission to obligate the state to pay for any work constructed under any contract or to hold the state in any way responsible to settlers for the failure of the contractors to complete the work, according to the terms of their contracts with the state.

**By-laws.**

SEC. 50. Said commission is hereby authorized and empowered to adopt such by-laws and to establish and require the observance of such rules and regulations as it may deem necessary, proper or expedient, not in conflict with law, or the regulations of the department of the interior with respect to the administration of the provisions of this act, and which shall be published from time to time in pamphlet form for free distribution.

**Meetings of commission.**

SEC. 51. The by-laws to be prepared by the commission shall provide for regular meetings to be held once every three months, but special meetings may be held at the call of the secretary of the commission or of a majority of the commission. A majority of the commission shall constitute a quorum for the transaction of all business coming before the commission in pursuance of the provisions of this act.

## IV. COUNTY WATER DISTRICTS.

*An act to provide for the incorporation and organization and management of county water districts, and to provide for the acquisition of water rights or construction thereby of waterworks and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts.*

(Approved June 10, 1913, Stats. 1913, p. 1049. Amended Stats. 1915, p. 26; 1917, p. 225; 1919, p. 816.)

### Organization of district.

SECTION 1. A county water district may be organized and incorporated and managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied.

### Who may organize.

SEC. 2. The people of any county, or city and county, or portion of a county, or city and county, whether such portion includes unincorporated territory or not, in the State of California, having a population of not less than one thousand inhabitants, may organize a county water district under the provisions of this act by proceeding as herein provided.

### Petition and election.

SEC. 3. A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of supervisors of the county in which the proposed water district is located, signed by the registered voters within the boundaries of the proposed water district, equal in number to at least ten per centum of the number of votes cast in said proposed county water district for the office of governor of this state at the last general election prior to the presenting of the petition; *provided*, that where one or more municipal corporations or part thereof is included in such proposed water district, such petition must be signed by at least ten per centum of the qualified electors of each such municipal corporations or part thereof and of the unincorporated territory included in such proposed water district so voting at such election. Such petition shall set forth and describe the proposed boundaries of such water district, and shall pray that the same be incorporated under the provisions of this act, and the text of such petition shall be published for at least two weeks before the time at which the same is to be presented in at least one, but not to exceed three newspapers printed and published in such county, together with a notice stating the time of the meeting at which same will be presented. When contained upon more than one instrument, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated.

With such publication there shall also be published a notice of the time of the meeting of the board when such petition will be considered and that all persons interested therein may then appear and be heard. At such time the board of supervisors shall hear the petition and those



appearing thereon together with such written protests as shall have been filed with the clerk of the board prior to such hearing by or on behalf of owners of taxable property situated within the boundaries of the proposed district and may adjourn such hearing from time to time, not exceeding four weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures, thereto shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which would be benefited by the formation of such district; nor shall any lands which will not, in the judgment of said board, be benefited by such district be included within such proposed district. Any person whose lands are benefited by such district may upon his application, in the discretion of said board, have such lands included within said proposed district.

Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. Upon the final determination of the boundaries of the district the board of supervisors shall give notice of an election to be held in said proposed water district for the purpose of determining whether or not the same shall be incorporated, the date of which election shall be not more than sixty days from the date of the final hearing of such petition. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words "\_\_\_\_\_ county water district"), and this notice shall be published at least two weeks prior to such election in at least one, but not to exceed three, newspapers printed and published in said county. At such election the proposition to be submitted shall be: "Shall the proposition to organize \_\_\_\_\_ county water district under (naming the chapter containing this act) of the acts of the fortieth session of the California legislature and amendments thereto be adopted?" And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of electors under the general election laws of the state. Within four days after such election the vote shall be canvassed by the board of supervisors. If a majority of the votes cast at such election in each municipal corpora-

tion or part thereof and in the unincorporated territory included in such proposed water district shall be in favor of organizing such county water district, said board shall by an order entered on its minutes declare the territory enclosed within the proposed boundaries duly organized as a county water district under the name theretofore designated, and the county clerk shall immediately cause to be filed with the secretary of state and shall cause to be recorded in the office of the county recorder of the county in which such district is situated, each, a certificate stating that such a proposition was adopted. Upon the receipt of such last mentioned certificate the secretary of state shall, within ten days, issue his certificate reciting that the county water district (naming it) has been duly incorporated according to the laws of the State of California. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such county water district is situated. From and after the date of such certificate, the district named therein shall be deemed incorporated as a county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. In case less than a majority of the votes cast are in favor of said proposition the organization fails but without prejudice to renewing proceedings at any time in the future. (Amended, Stats. 1915, p. 26.)

#### **Election of directors.**

SEC. 4. At an election to be held within such water district under the provisions of this act and the laws governing general elections not inconsistent herewith, the county water district thus organized shall proceed within ninety days after its formation to the election of a board of directors consisting, if there are no municipalities within the boundaries of said district, of five members. In all cases where the boundaries of such water district include any municipality or municipalities, said board of directors, in addition to said five directors to be elected as aforesaid, shall consist of one additional director for each one of said municipalities within such county water district, each such additional director to be appointed by the mayor of the municipality for which said additional director is allowed; and if there be any unincorporated territory within said water district, of one additional director, to be appointed by the said board of supervisors. Any director so appointed need not be an elector or resident of said district. All directors, elected or appointed, shall hold office until the election and qualification or appointment and qualification of their successors. The term of office of directors elected under the provisions of this act shall be four years from and after the date of their election; *provided*, that the directors first elected after the passage of this act shall hold office only until the election and qualification of their successors as hereinafter provided. The term of office of directors appointed by said mayor or mayors or by said board of supervisors shall be six years from and after the date of appointment. Directors to be first appointed under the provisions of this act shall be appointed within ninety days after the formation of the district. The election of directors of such county water district shall be in every fourth year after its organization, on the fourth Tuesday in March, and shall be known as the general water district election. A second election shall be held, when necessary, as herein-

after provided, on the third Tuesday after such general election, and shall be known as the second water district election. All other elections which may be held by authority of this act, or of the general laws, shall be known as special water district elections.

### Nomination and election of officers.

SEC. 5. (1) The mode of nomination and election of all elective officers of such water district to be voted for at any water district election and the mode of appointment of a director or directors by said mayor or mayors or by said board of supervisors shall be as follows and not otherwise.

(2) The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

(3) The petition of nomination shall consist of not less than twenty-five individual certificates, which shall read substantially as follows:

### PETITION OF NOMINATION.

*Individual Certificate.*

State of California, } ss.  
County of ----- }

Precinct No.-----

I, the undersigned, certify that I do hereby join in a petition for the nomination of \_\_\_\_\_, whose residence is at No. \_\_\_\_\_, \_\_\_\_\_ street, for the office of \_\_\_\_\_ of the \_\_\_\_\_ county water district to be voted for at the water district election to be held in the \_\_\_\_\_ county water district on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; and I further certify that I am a qualified elector residing within said district, and am not at this time a signer of any other petition nominating any other candidate for the above named office, or, in case there are several places to be filled in the above named office, that I have not signed more petitions than there are places to be filled in the above named office; that my residence is at No. \_\_\_\_\_, \_\_\_\_\_ street, \_\_\_\_\_, and that my occupation is \_\_\_\_\_.

(Signed) \_\_\_\_\_

State of California, }  
County of ----- } ss.

----- being duly sworn, deposes and says that he is the person who signed the foregoing certificate and that the statements therein are true and correct.

(Signed) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary public or verification deputy.

The petition for nomination of which this certificate forms a part shall, if found insufficient, be returned to----- at No. ----, ----- street, ----- California.



(4) It shall be the duty of the county clerk to furnish upon application a reasonable number of forms of individual certificates of the above character.

(5) Each certificate must be a separate paper. All certificates must be of uniform size as determined by the county clerk. Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more. Each signer must be a qualified elector residing within said district, must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, nor, in case there are several places to be filled in the same office, signed to more certificates for candidates for that office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all such certificates shall be rejected. Each signer must verify his certificate and make oath that the same is true, before a notary public or a verification deputy, as provided for in this section. Each certificate shall further contain the name and address of the person to whom the petition is to be returned in case said petition is found insufficient.

(6) Verification deputies, under this section, must be qualified electors of such county water district, and shall be appointed by the county clerk upon application in writing, signed by not less than five qualified electors of such county water district. The application shall set forth that the signers thereto desire to procure the necessary signatures of electors for the nomination of candidates for office in said county water district at an election therein specified, and that the applicants desire the person or persons whose names and addresses are given appointed as verification deputies, who shall upon appointment be authorized and empowered to take the oath of verification of the signers of petitions of nomination. Such verification deputies need not use a seal, and shall not have power to take oaths for any other purposes whatsoever, and their appointments shall continue only until all petitions of nomination, under this section, shall have been filed by the county clerk.

(7) A petition of nomination, consisting of not less than twenty-five individual certificates for any one candidate, may be presented to the county clerk not earlier than forty-five days nor later than thirty days before the election. The county clerk shall endorse thereon the date upon which the petition was presented to him.

(8) When a petition of nomination is presented for filing to the county clerk, he shall forthwith examine the same, and ascertain whether or not it conforms to the provisions of this section. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition can not be filed, and shall return the petition to the person named as the person to whom the same may be returned in accordance with this section. The petition may then be amended and again presented to the clerk as in the first instance. The clerk shall forthwith proceed to examine the petition as hereinbefore provided. If necessary, the board of supervisors shall provide extra help to enable the clerk to perform satisfactorily and promptly the duties imposed by this section.

(9) Any signer to a petition of nomination and certificate may withdraw his name from the same by filing with the county clerk a verified revocation of his signature before the filing of a petition by the clerk, and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

(10) Any person whose name has been presented under this section as a candidate may, not later than twenty-five days before the day of election, cause his name to be withdrawn from nomination by filing with the county clerk a request therefor in writing, and no name so withdrawn shall be printed upon the ballot. If, upon such withdrawal, the number of candidates remaining does not exceed the number to be elected, then other nominations may be made by filing petitions therefor not later than twenty-five days prior to such election.

(11) If either the original or amended petition of nomination be found sufficiently signed as hereinbefore provided, the clerk shall file the same twenty-five days before the date of the election. When a petition of nomination shall have been filed by the clerk it shall not be withdrawn or added to and no signature shall be revoked thereafter.

(12) The county clerk shall preserve in his office for a period of two years, all petitions of nomination and all certificates belonging thereto, filed under this section.

(13) Immediately after such petitions are filed, the county clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall not later than twenty days before the election certify such list as being the list of candidates nominated as required by the provisions of this act, and the board of supervisors shall cause said certified list of names and the offices to be filled, to be published in the proclamation calling the election at least ten successive days before the election in at least one but nor more than three newspapers of general circulation published in the county in which such municipal water district is located. Such proclamation shall conform in all respects to the general state law governing the conduct of general elections now or hereafter in force, applicable thereto, except as otherwise herein provided.

(14) The county clerk shall cause the ballots to be printed and bound and numbered as provided by said general state law, except as otherwise required in this act. The ballots shall contain the list of names and the respective offices as published in the proclamation and shall be in substantially the following form:

GENERAL (OR SPECIAL) DISTRICT ELECTION,

----- COUNTY WATER DISTRICT,

(Inserting date thereof).

*Instructions to Voters:* To vote, stamp or write a cross (X) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector of election, and obtain another.

(15) All ballots printed shall be precisely on the same size, quality, tint of paper, kind of type, and color of ink, so that without the number

it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right-hand side for questions to be voted upon at municipal water district elections, as provided for under this act. The names of the candidates for each office shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

(16) The name of no candidate who has been duly and regularly nominated, and who has not withdrawn his name as herein provided shall be omitted from the ballot.

(17) The offices to be filled shall be arranged in the following order: "For director vote for (giving number)."

(18) Half-inch square shall be provided at the right of the name of each candidate wherein to mark the cross.

(19) Half-inch spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

(20) The county clerk shall cause to be printed sample ballots, identical with the ballot to be used at the election, and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail one such ballot to each voter entitled to vote at such election, so that all of said sample ballots shall have been mailed at least three whole days before said election.

(21) In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for the candidates for that office shall be declared elected; in case there are two or more persons to be elected to an office, as that of director, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected; *provided, however*, that no person shall be declared elected to any office at such first election unless the number of votes received by him shall be greater than one-half the number of ballots cast at such election.

(22) If at any election held as above provided there be any office to which the required number of persons was not elected, then as to such office the said first election shall be considered to have been a primary election for the nomination of candidates, and a second election shall be held to fill said office. The candidates not elected at such first election, equal in number to twice the number to be elected to any given office, or less if so there be, who receive the highest number of votes for the respective offices at such first election, shall be the only candidates at such second election; *provided*, that if there be any person who, under the provisions of this subdivision, would have been entitled to become a candidate for any office, except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes shall likewise become candidates for such office. The candidates equal in number to the persons to be elected who shall receive the highest number of votes at such second election shall be declared elected to such office.



(23) The said second election, if necessary to be held, shall be held three weeks after the first election.

(24) All the provisions and conditions above set forth as to the conduct of an election, so far as they may be applicable, shall govern the second election, except that notice of election need be published twice only; *and provided, also*, that the same precincts and polling places shall, if possible, be used.

(25) If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as hereinafter provided.

(26) The mode of appointment of director or directors by a mayor, or by a board of supervisors shall be by certificate of appointment signed by said mayor or mayors, or issued by said board of supervisors, and transmitted to the board of directors of said county water district.

(27) No informality in conducting county water district elections shall invalidate the same, if they have been conducted of directors to fill a vacancy, or appointment by a mayor or by this act.

#### General laws to govern.

SEC. 6. The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable, shall govern all water district elections, except as in this act otherwise provided; *provided*, that the board of supervisors shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four days after any water district election, including any water district bond election.

#### Officers subject to recall.

SEC. 7. Every incumbent of an elective office, whether elected by popular vote for a full term, or elected by the board of directors to fill a vacancy, or appointed by a mayor or by said board of supervisors for a full term, is subject to recall by the voters of any county water district organized under the provisions of this act, in accordance with the recall provisions of the general laws of the state applicable to officers of counties.

#### Organization of board.

SEC. 8. The board of directors shall be the governing body of such county water district. It shall hold its first meeting on the sixth Monday after the first general election for the election of directors as herein provided; it shall choose one of its members president, and shall thereupon provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All legislative sessions of the board of directors whether regular or special shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business. The board of directors shall establish rules for its proceedings.

**Ordinances.**

SEC. 9. The board of directors shall act only by ordinance or resolution. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the board of directors. No ordinance or resolution shall be passed or become effective without the affirmative votes of at least a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the board of directors of ----- county water district as follows:". All resolutions and ordinances shall be signed by the president of the board of directors and attested by the secretary. Each of the members of the board of directors shall receive for each attendance at the meetings of the board ten dollars, and shall receive no other compensation. No director, however, shall receive pay for more than three meetings in any calendar month. Any vacancy in the board of directors, whether the vacant office is elective or appointive, shall be filled by the remaining directors.

**General manager, secretary and auditor.**

SEC. 10. The board of directors shall at its first meeting, or as soon thereafter as practicable, appoint, by a majority vote, a general manager, a secretary, and an auditor. No director shall be eligible to the office of general manager, secretary, or auditor. The general manager, secretary, and auditor shall receive such compensation as the board of directors shall determine, and each shall serve at the pleasure of the board.

**Informality not to invalidate.**

SEC. 11. No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any county water district, and any proceeding wherein the validity of such incorporation is denied shall be commenced within three months from the date of the certificate of incorporation, otherwise said incorporation and the legal existence of said county water district, and all proceedings in respect thereto, shall be held to be valid and in every respect legal and incontestable.

**Powers of district.**

SEC. 12. Any county water district incorporated as herein provided, shall have power:

1. To have perpetual succession;
2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;
3. To adopt a seal and alter it at pleasure;
4. To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind,

within or without the district, necessary to the full exercise of its powers;

5. To acquire, by purchase, lease or otherwise, water rights, waterworks, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights and privileges, useful or necessary to convey, supply, store, or otherwise, make use of water for irrigation, power, or other useful purpose, and to operate and maintain such water rights, waterworks, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights, and privileges, for the uses aforesaid, for the benefit of the district;

6. To store water for the benefit of the district; and to conserve water for future use and to appropriate, acquire and preserve water and water rights and for this purpose to sue, intervene and compromise, in the name of the district, and assume the costs of litigation involving the ownership of waters or water rights within the district and those used and useful for the purposes of the district or of any of the lands situated therein; to maintain and defend actions to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters being used for irrigation of lands within the district or which are a benefit essentially common to the lands within the district or its inhabitants; and to maintain and defend actions to prevent any such interference with the aforesaid waters as may endanger the inhabitants or lands of the district.

7. To lease of and from any person, firm, or public or private corporation, with the privilege of purchase, or otherwise, existing water rights, waterworks, canals, or reservoir systems; and to carry on and maintain the same; also to sell water, or the use thereof, for irrigation, power, or other useful purposes, and whenever there is a surplus, sell, or otherwise, dispose of the same, to municipalities, or towns, or to consumers, located within or without the boundaries of the district;

8. To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing water rights, canals, reservoirs, storage sites, watersheds, waterworks or systems, or any portion thereof owned by any person, firm or corporation; *provided*, that property and water rights of municipal corporations shall not be subject to the provisions of this section. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

9. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof.

10. To cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided;

11. To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers. (Amended Stats. 1919, p. 816.)



**Powers exercised by board.**

SEC. 13. The powers herein enumerated shall, except as herein otherwise provided, be exercised by the board of directors above provided for and elected and appointed as described herein.

**Duties of officers of board.**

SEC. 14. The president shall sign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The secretary shall give his full time during office hours to the affairs of the district. The general manager shall have full charge and control of the maintenance, operation and construction of the waterworks or waterworks system of said water district, with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, and shall, subject to the approval of the board of directors, fix their compensation. The general manager shall perform such other duties as may be imposed upon him by the board of directors. The general manager shall report to the board of directors in accordance with such rules and regulations as they may adopt. The auditor shall be charged with the duty of installing and maintaining a system of auditing and accounting that shall completely and at all times show the financial condition of the district. He shall draw warrants to pay demands made against the district when such demands have been first approved by at least three members of the board of directors and by the general manager. The board of directors shall also designate a depository or depositaries to have the custody of the funds of the district, all of which depositaries shall give security sufficient to secure the district against possible loss, and who shall pay the warrants drawn by the auditor for demands against the district under such rules as the directors may prescribe. The general manager, secretary and auditor, and all other employees or assistants of said district who may require so to do by the board of directors, shall give bonds to the district conditioned for the faithful performance of their duties as the board of directors from time to time may provide.

**Bonded indebtedness.**

SEC. 15. Whenever the board of directors deem it necessary for the district to incur a bonded indebtedness, it shall, by resolution, so declare and state the proposition to be submitted to the electors, the purpose for which the proposed debt is to be incurred, the amount of debt to be incurred, the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed forty years, and the maximum rate of interest to be paid, which shall not exceed seven per cent per annum. The board of directors shall fix a date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred. It shall be the duty of the board of directors to provide for holding such special election on the day so fixed and in accordance with the general election laws of the state so far as the same shall be applicable, except as herein otherwise provided. Such board of directors shall give notice of the holding of such election, which notice shall

contain the resolution adopted by the board of directors of the water district, boundaries of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. Such notice shall be published for two weeks in at least one newspaper and not more than three newspapers published in such water district, which newspaper or newspapers shall be designated by the board of directors; and if there is no newspaper printed in such water district, then by posting such notice in three public places therein. All the expenses of holding such election shall be borne by the district. The returns of such election shall be made, the votes canvassed by said board of directors on the first Monday following said election, and the results thereof ascertained and declared in accordance with the general election laws of the state so far as they may be applicable, except as herein otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted. In all respects not otherwise provided for herein said election shall be called, managed and directed as is by law provided for general elections in this state applicable thereto, except as herein otherwise provided.

#### **Two-thirds vote necessary.**

SEC. 16. If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the board of directors may, by resolution, at such time or times as it deems proper, provide for the form and execution of such bonds and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such times or in such manner as it may deem to be to the public interest.

#### **Value of bonds issued.**

SEC. 17. Any bonds issued by any district organized under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the State of California.

#### **Power to construct works.**

SEC. 18. The board of directors shall have power to construct works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said works may intersect or cross; *provided*, such works are constructed in such manner as to afford security for life and property, and said board of directors shall restore the crossings and intersections to their former state as near as may be, or in a manner not to have impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall unite with said board of directors in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this state, and to have the same rights

and privileges appertaining thereto as have been or may be granted to the municipalities within the state.

#### **Water rates.**

SEC. 19. The board of directors shall fix all water rates, subject to the power of the state railroad commission to fix rates for water furnished to municipal corporations and their inhabitants, and shall through the general manager collect the charges for the sale and distribution of water to all customers. (Amended Stats. 1915, p. 26.)

#### **Rate to pay operating expenses.**

SEC. 20. The board of directors in the furnishing of water shall fix such rate as will pay the operating expenses of the district, provide for repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and, so far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may become due; it being the intention of this section to require the district to pay the interest and principal of its bonded debt from the revenues of the district.

#### **Tax levy to pay deficit.**

SEC. 21. If, from any cause the revenues of the district shall be inadequate to pay the principal or interest on any bonded debt as it becomes due, or any other expenses or claims against the district, then the board of directors must at least fifteen days before the first day of the month in which the board of supervisors of the county or city and county in which such water district is located is required by law to levy the amount of taxes required for county or city and county purposes and furnish to the board of supervisors and to the auditor respectively an estimate in writing of the minimum amount of the money required by the district for that purpose, and the board of supervisors of such county or city and county, must annually, at the time and in the manner of levying other county or city and county taxes, and until all such claims are fully paid levy and cause to be collected a tax to be known as the "----- county district water tax." (Amended Stats. 1915, p. 26.)

#### **Levy and collection of tax.**

SEC. 22. Such tax shall be levied on all property in the territory comprising the district and shall be collected at the same time and in the same manner and form as county taxes are collected and when collected, shall be paid to the district for which such tax was levied and collected. Such tax shall be a lien on all the property within the territory comprising the district and of the same force and effect as other liens for taxes and its collection shall be enforced by the same means as provided for in the enforcement of liens for state and county taxes.

#### **Initiative.**

SEC. 23. Ordinances may be passed by the electors of any county water district organized under the provisions of this act in accordance



with the methods provided by the general laws of the state for direct legislation applicable to counties.

#### Referendum.

SEC. 24. Ordinances may be disapproved and thereby vetoed by the electors of any such county water district by proceeding in accordance with the methods provided by the general laws of the state for protesting against legislation by counties.

#### Adding to district.

SEC. 25. Any portion of a county or any municipality, or both, may be added to any county water district organized under the provisions of this act, at any time, upon petition presented in the manner herein provided for the organization of such water district, which petition may be granted by ordinance of the board of directors of such water district. Such ordinance shall be submitted for adoption or rejection to the vote of the electors in such water district and in the proposed addition, at a general or special election held as herein provided, within seventy days after the adoption of such ordinance. If such ordinance is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county recorder of the county in which such water district is located. Upon the receipt of such last mentioned certificate the secretary of state shall, within ten days, issue his certificate, reciting the passage of said ordinance and the addition of said territory to said district. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such county water district is situated. From and after the date of such certificate the territory named therein shall be deemed added to and form a part of said county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

#### Other water acts not repealed.

SEC. 26. Nothing in this act shall be so construed as repealing or in any wise modifying the provisions of any other act relating to water or the supply of water to, or the acquisition thereof by counties or municipalities within this state. The term "municipality," as used in this act, shall include a consolidated city and county, city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing and those hereafter organized for municipal purposes within such water districts. The term "county" shall be understood and construed to include "city and county." In municipalities in which there is no mayor the duty imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees or other chief executive of the municipality. The word "district" shall apply, unless otherwise expressed or used, to a water district formed under the provisions of this act, and the word "board" and the words "boards of directors" shall apply to the board of directors of such district. Any county water district heretofore organized under the provisions of the act of which this act is amendatory shall enjoy all the powers herein

granted and the organization of such districts and all proceedings leading to such organization are hereby affirmed and validated and such districts are hereby declared to be duly organized and incorporated. (Amended Stats. 1915, p. 26.)

#### **Duties performed by registrar of voters.**

SEC. 27. Whenever a registrar of voters in any county, or city and county, shall be appointed, or elected, under the provisions of law, or charter providing therefor, the duties imposed on the county clerk by the provisions of this act shall be performed by the registrar of voters with like effect, and in such case all papers or documents required to be filed with the county clerk shall be filed with said registrar of voters when so appointed or elected.

#### **Exclusion of territory.**

SEC. 28. Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars, to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be returned to the petitioner. Upon the filing of such petition with the secretary of the water district he shall call a meeting of the board of directors of the district at a time not less than twenty-five days nor more than fifty days after the filing of the petition and cause a notice of the filing of such petition to be published for at least two weeks in some newspaper of general circulation within said district, if there be one, and if not, in some newspaper of general circulation published in the county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; *provided*, that the board may adjourn the hearing to a more convenient meeting place within the district. Any landowner or taxpayer within the district shall have the right to appear at said hearing, either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the

district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer included in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county in which the district is situated and the record of such certified copy shall be deemed prima facie evidence of the exclusion from the district of the lands purporting to be excluded thereby.

The board of directors of any county water district formed under the provisions of this act may itself initiate the proceedings for the exclusion from the district of any land or lands which it may not be for the best interests of the district to be included, or which may not be benefited in any manner by their continued inclusion therein. Such proceedings shall be initiated by the board of directors by the passage of a resolution requiring all persons interested to appear and show cause before the board of directors, at a time and place specified, why such lands, describing them, should not be excluded from the district and fixing a time and place for such hearing and directing the secretary of the district to give notice of the passage of such resolution and of such hearing. Upon the passage of such resolution the secretary of the district shall give notice thereof and of the time and place of such hearing in the manner hereinbefore prescribed for notice of hearing upon petition by a landowner or landowners, and thereafter all proceedings shall be had in the manner and with the effect herein provided for proceedings upon a petition by a landowner or landowners. The time of hearing fixed by the board of directors by its resolution hereinbefore mentioned shall be not less than twenty-five days nor more than fifty days after the passage of such resolution and the place of hearing so fixed shall be a convenient place within the district; *provided*, that the final action of the board of directors under this section shall be subject to the referendum by the electors of the water district according to section twenty-four of this act. (Added Stats., 1917, p. 225.)



## V. COUNTY WATERWORKS DISTRICT ACT.

*An act to provide for the formation, management and dissolution of county waterworks districts; for supplying the inhabitants thereof with water; for levying and collecting taxes on property in such districts; and for the issuance of county waterworks district bonds, and the payment thereof.*

(Approved June 13, 1913, Stats. 1913, p. 785. Amended Stats. 1915, p. 1188.)

### Formation of county waterworks districts.

SECTION 1. Any portion of a county, containing unincorporated territory, or containing the whole or any portion of one or more incorporated cities and contiguous unincorporated territory, and not included in a county irrigation district or county waterworks district, may be formed into a county waterworks district, and provision made for the purpose of supplying the inhabitants of such district with water, in the manner and under the proceedings hereinafter described. (Amended Stats. 1915, p. 1188.)

### Petition.

SEC. 2. A petition for the formation of such county waterworks district may be presented to the board of supervisors of the county in which the proposed district is located, which petition shall be signed by not less than fifty freeholders, resident within the proposed district, and shall contain:

(1) The name and boundaries of the proposed county waterworks district to be benefited by the said improvement.

(2) A general description of the improvement desired for the purpose of supplying the inhabitants of such district with water, and which may embrace any or all of the following: the acquisition, construction, installation, completion, extension, repair or maintenance of waterworks, structures and appliances, and the acquisition, by purchase, condemnation, contract, lease, or otherwise, of lands, rights of way, water, water rights and water service, necessary or convenient for such purpose.

• (3) An estimate of the cost of the proposed improvement and of the incidental expenses in connection therewith.

(4) A request that an election be called in said district for the purpose of submitting to the qualified voters thereof the proposition of forming such district and incurring indebtedness by the issuance of bonds of such district to pay the cost and expenses of the proposed improvement. Such petition must be accompanied by a map showing the exterior boundaries of the proposed district, with relation to the territory immediately contiguous thereto, and contain a general description of the proposed improvement. There shall also be filed with said petition a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of forming such district, conditioned that the sureties shall pay said cost, in case the formation of such district shall not be effected. (Amended Stats. 1915, p. 1189.)

**Hearing on petition.**

SEC. 3. Such petition must be presented at a regular meeting of said board of supervisors, and the board shall thereupon fix a time for hearing the same, and protests of interested parties, not less than twenty-one, nor more than thirty days after the date of presentation thereof. The clerk of the said board shall thereupon cause notices of the filing and hearing of such petition to be posted in three of the most public places in said district. Said notice shall be headed "Notice of the formation of ----- county waterworks district No. -----" (stating name of county in which the district is located and the number of the proposed district) in letters not less than one inch in length, and shall, in legible characters, state the fact and date of the filing of such petition, the date and hour set for hearing such petition and protests, briefly describe the proposed improvement, specify the exterior boundaries of the district to be benefited by such improvement and to be taxed to provide for such improvement, and refer to said petition, map and general description of the proposed improvement for further particulars. The said clerk shall also cause a notice, similar in substance, to be published at least once a week for two consecutive weeks in a newspaper of general circulation printed and published in the county in which the proposed district is located, and designated by said board for that purpose. Said notice must be posted and published, as above provided, at least ten days before the date set for the hearing of said petition. (Amended Stats. 1915, p. 1189.)

**Written protests; changes in boundaries.**

SEC. 4. Any person interested, objecting to the formation of said district, or to the extent of said district, or to the proposed improvement, or to the inclusion of his property in said district, may file a written protest, setting forth such objections, with the clerk of said board at or before the time set for the hearing of said petition. The clerk of said board shall endorse on each such protest the date of its reception by him, and, at the time appointed for the hearing above provided for, shall present to said board all protests so filed with him. Said board shall hear said petition and protests at the time appointed, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision thereon shall be final and conclusive. If any of such protests be against the formation of said district, or against the proposed improvement, and be sustained, no further proceedings shall be had or taken pursuant to said petition, but a new petition for the same or a similar purpose may be filed at any time. If any of such protests be against the extent of said district, or against the inclusion of property in said district, then the board shall have power to make such changes in the boundaries of the proposed district as it shall find to be proper and advisable, and shall define and establish such boundaries, but said board shall not modify such boundaries so as to exclude from such proposed district any territory which will be benefited by said improvement, nor shall any territory which will not, in the judgment of said board be benefited by said improvement, be included within such proposed district.

Neither shall said board modify such boundaries except after notice of its intention so to do, given by one insertion in a newspaper of general circulation printed and published in said county and designated by said board for that purpose, describing the proposed modification, and specifying a time for hearing objections to such modification, which time shall be at least ten days after the publication of said notice. Written objections to such proposed modification may be filed with the clerk of said board by any interested person at or before the time set for hearing the same. Said board shall hear and pass upon such objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive. If such objections or any of them, be sustained, no further proceedings pursuant to such petition shall be taken, but a new petition for the same or a similar purpose may be filed at any time.

At the expiration of the time within which protests may be filed, if none be filed, or if protests be filed and, after hearing be denied, or at the expiration of the time within which objections to the modification of the boundaries of the district, in case such modification be proposed, may be filed, if none be filed, or if such objections be filed and, after hearing, be overruled, as above provided, then said board shall be deemed to have acquired jurisdiction to further proceed in accordance with the provisions of this act.

#### **Election; rate of interest.**

SEC. 5. The board of supervisors shall, by ordinance or resolution adopted at a regular or special meeting thereof after having acquired jurisdiction to proceed, as provided above, provide for and order the holding of a special election in such proposed county waterworks district and the submission to the qualified voters thereof, of the proposition of forming such district and incurring a debt by the issuance of bonds of such district for the purposes set forth in said petition. The ordinance or resolution calling such special election shall also recite the objects and purposes for which the proposed indebtedness is to be incurred, the estimated cost of the proposed improvement, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness, and shall fix the date on which said special election shall be held, the manner of holding the same, and the manner of voting for or against said proposition. The maximum rate of interest to be paid on such indebtedness shall be eight per centum per annum, payable semiannually. (Amended Stats. 1915, p. 1190.)

#### **Conduct of election.**

SEC. 6. For the purposes of said election, the board of supervisors shall, in said ordinance or resolution, establish one or more precincts within the boundaries of the said county waterworks district, designate a polling place, and appoint one inspector, one judge and one clerk for each such precinct. In all particulars not recited in such ordinance or resolution, such election shall be held as provided by law for holding general elections in such county. Said ordinance or resolution ordering the holding of said election shall, prior to the date set for such election,



be published five times in a daily, or twice in a weekly or semi-weekly newspaper of general circulation printed and published in said county and designated by said board of supervisors for said purpose, and shall be posted in three of the most public places in said county waterworks district at least ten days prior to the date set for such election. No other notice of such election need be given. If at such election a majority of the votes cast are in favor of the formation of such district and the incurring of such bonded indebtedness, then the board of supervisors shall enter an order to that effect upon its minutes, declaring said district formed, and said board shall thereupon be authorized and empowered to issue the bonds of said district for the amount provided for in such proceedings, payable out of funds of such district to be provided as in this act prescribed. (Amended Stats. 1915, p. 1190.)

#### Form of bonds.

SEC. 7. The board of supervisors, by an order entered upon its minutes, shall, subject to the provisions of this act, prescribe the form of said bonds and of the interest coupons attached thereto. Said bonds shall be payable in the following manner: a part to be determined by said board, and which shall not be less than one fortieth part of the whole amount of such indebtedness, shall be payable each and every year on a day and date, and at a place, to be fixed by said board, and designated in such bonds, together with the interest on all sums unpaid on such date, until the whole of said indebtedness shall have been paid; *provided, however*, that the board of supervisors may, in its discretion, determine and fix a date for the earliest maturity of the principal of such bonds not more than ten years from the date of the issue of such bonds, but, in this event, the whole amount of such indebtedness must be made payable in equal annual parts in not to exceed forty years from the time of contracting the same. The bonds shall be issued in such denominations as the board of supervisors may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars, and shall be payable on the day and at the place fixed in such bonds and with interest at the rate specified in such bonds, which rate shall not be in excess of eight per cent per annum and shall be payable semiannually, and said bonds shall be signed by the chairman of the board of supervisors and countersigned by the auditor of said county, and the seal of said county shall be affixed thereto. The interest coupons of said bonds shall be numbered consecutively and signed by the auditor of said county by his engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall, nevertheless, be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds.

#### Issue and sale of bonds.

SEC. 8. The board of supervisors may issue and sell the bonds of such district, authorized as hereinabove provided, at not less than par value, and the proceeds of the sale of such bonds shall be placed in

the county treasury to the credit of the proper county waterworks district fund and shall be applied exclusively to the purposes and objects mentioned in the ordinance or resolution ordering the holding of the bond election, as aforesaid: *provided*, that in such case of the annexation of all the territory comprising a county waterworks district to an incorporated city, as provided for in section thirteen of this act, subsequent to the authorization of bonds by such district and prior to the issuance and sale thereof, the governing legislative authority of such city is hereby authorized to issue and sell said bonds. The proceeds of the sale of such bonds shall be placed in the city treasury to the credit of the proper county waterworks district fund, and shall be applied exclusively to the purposes and objects mentioned in the ordinance or resolution ordering the holding of the bond election, as aforesaid. (Amended Stats. 1915, p. 1191.)

#### **Tax levy for principal and interest.**

SEC. 9. The board of supervisors shall levy a tax, each year, upon the taxable property in such county waterworks district, sufficient to pay the interest on said bonds for that year, and such portion of the principal thereof as is to become due before the time for making the next general tax levy; *provided, however*, that if the maturity of the indebtedness created by the issue of such bonds be made to begin more than one year after the date of such issue, such tax shall be levied and collected at the time and in the manner aforesaid each year, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. Such tax shall be levied and collected at the time and in the same manner as the general tax levy for county purposes, and when collected shall be paid into the county treasury and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer in the manner provided by law for the payment of principal and interest on bonds of such county. (Amended Stats. 1915, p. 1191.)

#### **Tax for maintenance; water rates.**

SEC. 10. The board of supervisors of any county wherein a county waterworks district has been formed under the provisions of this act, shall have the power, in any year after the establishment of such district, to levy a tax upon the taxable property in such district sufficient to pay the cost and expenses of maintaining, operating, extending and repairing the waterworks of said district for the ensuing fiscal year, and said tax shall be levied and collected at the time and in the same manner as the general tax levy for county purposes, and the revenue derived from said tax shall be paid into the county treasury to the credit of the proper fund of said district, and said board shall have the power to control and order the expenditure thereof for said purpose. Said board of supervisors shall also have power to fix and collect rates or charges for the use and supply of water furnished by the system of said county waterworks district, and to apply the receipts from said rates or charges to the expenses of the administration and government

of said district and the use, operation and extension of the waterworks and water supply. (Amended Stats. 1915, p. 1192.)

#### **Contracts for improvements.**

SEC. 11. All contracts for furnishing the labor, materials or supplies required for any improvement mentioned in this act, shall be let to the lowest responsible bidder. The board of supervisors of the county shall advertise for two or more days in a newspaper of general circulation, printed and published in such county, inviting sealed proposals for furnishing the labor, materials and supplies for the proposed improvement before any contract shall be made therefor. The board shall have the right to require such bonds as it may deem best from the successful bidder, to insure the faithful performance of the contract, and shall also have the right to reject any and all bids; *provided, however*, that nothing herein contained shall be construed as prohibiting such county itself, and, when ordered by the board of supervisors thereof, it shall have power, to make the proposed improvement without a contractor therefor, and to purchase the materials and supplies, and employ the labor necessary for such purpose; *and provided, further*, that any improvement for which bonds are voted under the provisions of this act, shall be made in conformity with the general description of the proposed improvement thereof provided for in section two hereof. Any improvement provided for in this act may be located, constructed and maintained in, along or across any public road or highway, or publicly owned right of way in the county, in such manner as to afford security for life and property; but the board of supervisors of the county shall restore, or cause to be restored, such road or highway, or publicly owned right of way to its former state, as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness. (Amended Stats. 1915, p. 1192.)

#### **Rules and regulations.**

SEC. 12. The board of supervisors of any county wherein any such county waterworks district is situated, shall have power to make and enforce all rules and regulations necessary for the administration and government of such district, and for the acquisition, purchase or construction, the use and operation of the waterworks thereof; to appoint or employ all needful agents, superintendents and engineers to properly look after the performance of any work provided for in this act; and to perform all other acts necessary or proper to accomplish the purposes of this act. (Amended Stats. 1915, p. 1193.)

#### **Title to property; annexation to municipal corporation.**

SEC. 13. The title to all property which may have been acquired for a county waterworks district, created under the provisions of this act, shall be vested in the county wherein such county waterworks district is located; *provided*, that whenever all of the territory in such county waterworks district shall be annexed to, or otherwise included within, any municipal corporation owning works for supplying the inhabitants thereof with water, then such county waterworks district shall be deemed dissolved, but said municipal corporation shall have



authority to issue and sell any bonds of such district theretofore voted but not issued and sold, as provided in section eight of this act. Upon such annexation, the property of such county waterworks district shall thereupon become the property of such municipal corporation and shall become a part of, and be used in connection with, the works so owned by said municipal corporation; and such municipal corporation and the proper officers thereof shall, as to such property, and as to the levy and collection of taxes to meet the payments of principal and interest on outstanding bonds of such district and the making of such payments, have and exercise the powers and perform the duties vested in and imposed upon the said county, and the board of supervisors and other officers thereof, prior to such annexation or inclusion. All money in the county treasury to the credit of any fund of such county waterworks district shall, upon the annexation or inclusion of such territory, as above provided, be forthwith transferred to the treasury of said municipal corporation and be used for the purposes for which the same was available prior to such transfer and none other.

Whenever the major portion of the territory of a county waterworks district, created under the provisions of this act, shall be annexed to, or otherwise included within any one municipal corporation, owning works for supplying the inhabitants thereof with water then the board of supervisors of the county may lease to said municipal corporation, for periods not exceeding five years each, that portion of the distributing system of said county waterworks district which may be in said portion of said district annexed to or included in such municipal corporation. Such municipal corporation may use said leased distributing system for the purpose of distributing water directly to individual consumers thereon, with the same power of regulating the service of water through the same, and of charging and collecting for said service, as if said leased distributing system were part of the municipally owned water plant of said municipal corporation. The board of supervisors shall, in any such lease, reserve the right to use said leased distributing system, for the benefit of that portion of the county waterworks district not annexed to or included in said municipal corporation, to the extent that said leased system is essential to the efficient operation of the balance of the system. (Amended Stats. 1915, p. 1193.)

#### **Dissolution of district.**

SEC. 14. Any such county waterworks district may, except as otherwise provided in this act, be dissolved by the board of supervisors as hereinafter provided. Upon receiving a petition signed by fifty or more freeholders and residents of such county waterworks district, requesting the dissolution of such district, the board of supervisors shall fix a time for hearing such petition, which shall be not less than ten nor more than thirty days after the receipt of such petition, and shall, at least five days prior to the time so fixed, publish notice of such hearing by one insertion in a daily, weekly or semiweekly newspaper printed, published and circulated in said county. At the time appointed for such hearing, or at any time to which the same may be adjourned, the board of supervisors shall hear and pass upon such petition and may grant or deny the same, and its decision thereon shall be final and conclusive. If such petition be granted the board of supervisors shall,

by ordinance or resolution, order the dissolution of said district, and such district shall thereby be dissolved; *provided*, that if at the time of the dissolution of said district there be any outstanding bonded or other indebtedness of such district, then taxes for the payment of such bonded or other indebtedness shall be levied and collected the same as if such district had not been dissolved. (Amended Stats. 1915, p. 1194.)

#### **Alternative method provided.**

SEC. 15. This act shall not affect any other act or acts relating to the same or a similar subject, but is intended to provide an alternative method of procedure governing the subject to which it relates. When proceeding under the provisions of this act its provisions and none other shall apply.

#### **Construction.**

SEC. 16. The provisions of this act shall be liberally construed to effect the purposes thereof.

#### **Change of name; proceedings not affected.**

SEC. 17. The name of any county irrigation district, heretofore organized under the provisions of this act, is hereby changed to "----- county waterworks district No. -----" retaining the same county name and the same number heretofore a part of its name.

Any proceedings heretofore taken under the provisions of this act, and any bond issue heretofore voted by any county irrigation district, under the provisions of this act, whether said bond issue shall have been issued and sold, or not, shall not be affected in any manner, except as in this act provided, by reason of the change of name provided for herein, or by reason of any amendment or change of this act made by the amending act, providing, among other amendments, this section seventeen; but any such proceedings and any such bond issue shall continue and proceed without interruption, in accordance with the provisions of this act amended.

This act may be referred to as the "county waterworks district act." (Added Stats. 1915, p. 1194.)

#### **BONDS.**

*An act relating to bonds of county waterworks districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of county waterworks districts as security for the performance of any act may be authorized.*

(Approved June 5, 1915, Stats. 1915, p. 1211.)

#### **Unsold bonds of district.**

SECTION 1. Whenever the board of supervisors of any county in which a county waterworks district has been formed and organized

under and pursuant to the laws of the State of California shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of said district, including any of its bonds authorized but not sold, shall be made available for the purposes provided for in section seven of this act, the said board of supervisors shall thereupon file a certified copy of such resolution with the commission hereinafter provided for.

**Report on district's affairs.**

SEC. 2. Such commission, upon the receipt of a certified copy of such resolution, shall, without delay, make or cause to be made an investigation of the affairs of the district and report in writing upon such matters as it may deem essential, and particularly upon the following points:

(a) The supply of water available for the project and the right of the district to so much water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the district's waterworks system and of the specific project for which the bonds under consideration are desired to have been used, whether such system and project be constructed, projected or partially completed.

(d) The reasonable market value of the water, water rights, canals, tanks, reservoirs, reservoir sites, rights of way, pipe lines, waterworks, buildings and machinery owned by such district or to be acquired or constructed by it with the proceeds of any of such bonds.

(e) The reasonable market value of the lands included within the boundaries of the district.

(f) Whether or not the aggregate amount of the bonds under consideration and any other outstanding bonds of said district, including bonds authorized but not sold, exceeds sixty per centum of the aggregate market value of the lands within said district and of the water, water rights, canals, tanks, reservoirs, reservoir sites, rights of way, pipe lines, waterworks, buildings, machinery owned, or to be acquired or constructed with the proceeds of any of said bonds, by said district, as determined in accordance with paragraphs (d) and (e) in this section.

(g) The numbers, date or dates of issue and denominations of the bonds, if any, which the commission shall find are available for the purposes provided for in section seven of this act, and, if the investigation has covered contemplated bonds, the total amount of bonds which the district can issue without exceeding the limitation expressed in paragraph (f) of this section.

**Report filed with controller.**

SEC. 3. The written report of the investigation herein provided for shall be filed in the office of the state controller, and a copy of said report shall by the commission be forwarded to the board of supervisors of the county in which said district is formed and for which the investiga-



tion shall have been made, and if said commission shall have found, as set out in said report, that the waterworks system of the district and the specific project for which the bonds under consideration are desired or have been used, whether such project be constructed, projected or partially completed, are feasible and that the aggregate amount of the bonds under consideration and any other outstanding bonds of said district, including bonds authorized but not sold, does not exceed sixty per centum of the aggregate market value of the lands within said district and of the water, water rights, canals, tanks, reservoirs, reservoir sites, rights of way, pipe lines, waterworks, buildings and machinery owned or to be acquired or constructed with the proceeds of any of said bonds by said district, the bonds of such county waterworks district, as described and enumerated in said report filed with the state controller, shall be certified by the state controller, as hereinafter provided for. If the commission shall be notified by the board of supervisors of any county where a county waterworks district has been formed that such waterworks system has been found in such report to be feasible that the district has issued bonds and the commission shall find that said bonds are for any project or projects approved in such report and that the amount of said bonds does not exceed the limitation stated in such report, the commission shall prepare and file with the state controller a supplementary report giving the numbers, date or dates of issue and denominations of said bonds, which shall then be entitled to certification by the state controller as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but, after any of the bonds of a county waterworks district have been enumerated and described as entitled to certification by the state controller as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the state controller to provide for filing and preserving the reports mentioned in this section and, also, to make, keep and preserve a record of the bonds certified by him in accordance with the provisions of section four of this act, including the date of certification, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity.

#### Form of controller's certificate.

SEC. 4. Whenever any bond of a county waterworks district organized and existing as aforesaid, including any bond authorized in any such district but not sold, which shall be eligible to certification by the state controller under section three of this act, shall be presented to the state controller, he shall cause to be attached thereto a certificate in substantially the following form:

Sacramento, Cal. ----- (insert date).

I, -----, controller of the State of California, hereby certify that the within bond, No. ----- of issue No. ----- of the ----- county waterworks district, issued ----- (insert date), is, in accordance with an act of the legislature of California approved -----,

a legal investment for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the state school funds and any funds which may be invested in county, municipal or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city and county, or school district may be so deposited, it being entitled to such privileges by virtue of an examination by the state engineer, the attorney general and the superintendent of banks of the State of California in pursuance of said act.

-----  
Controller of State of California.

In case of a change in the constitution or any of the laws of this state relating to the bonds of county waterworks districts, the state controller shall, if necessary, modify the above certificate so that it shall conform to the facts.

#### **Members of commission.**

SEC. 5. The attorney general, the state engineer and the superintendent of banks are hereby constituted the commission herein provided for, and said commission shall elect one of its members chairman and may employ such clerks and assistants as may be necessary for the performance of the duties herein imposed, and may fix the compensation to be paid to such clerks and assistants.

#### **Expenses.**

SEC. 6. All necessary expenses incurred in making the investigation and report in this act provided for shall be paid as the commission may require by the county waterworks district whose property has been investigated and reported on by the said commission; *provided*, that the benefit of any services that may have been performed and any data that may have been obtained by any member of said commission or any other public official in pursuance of the requirements of any law other than this act, shall be available for the use of the commission herein provided for without charge to the district whose affairs are under investigation.

#### **Bonds legal investments.**

SEC. 7. All bonds certified in accordance with the terms of this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, such money or funds may be invested in the said bonds of county waterworks district, and whenever bonds of cities, cities and counties, counties, school districts or municipalities may by any law now or hereafter enacted be used as security for the performance of any act, bonds of county waterworks districts under the limitations in this act provided may be so used. This act is intended to be and shall be considered the latest enactment upon the matters herein contained, and any and all acts in conflict with the provisions hercof are hereby repealed.

## VI. MISCELLANEOUS.

NOTE.—The following acts relate generally to all irrigation districts or have sufficient bearing on the subject of the compilation to be noted. Acts relating expressly to districts formed under the California Irrigation District Act, will be found at the end of that act. See pages 77–81 hereof.

### IRRIGATION DISTRICT BOND COMMISSION.

*An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized.*

(Approved June 13, 1913, Stats. 1913, p. 778. Amended Stats., 1915, p. 692; 1917, p. 582; 1919, p. 1207.)

#### Resolution declaring bonds available as legal investments.

SECTION 1. Whenever the board of directors of any irrigation district organized and existing under and pursuant to the laws of the State of California shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of said district, including any of its bonds authorized but not sold, shall be made available for the purposes provided for in section seven of this act, the said board of directors shall thereupon file a certified copy of such resolution with the commission hereinafter provided for.

#### Report of irrigation district bond commission.

SEC. 2. Such commission, upon the receipt of a certified copy of such resolution, shall, without delay, make or cause to be made an investigation of the affairs of the district and report in writing upon such matters as it may deem essential, and particularly upon the following points:

(a) The supply of water available for the project and the right of the district to so much water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the district's irrigation system and of the specific project for which the bonds under consideration are desired or have been used, whether such system and project be constructed, projected or partially completed.

(d) The reasonable market value of the water, water rights, canals, reservoirs, reservoir sites and irrigation works owned by such district or to be acquired or constructed by it with the proceeds of any of such bonds.

(e) The reasonable market value of the lands included within the boundaries of the district.



(f) Whether or not the aggregate amount of the bonds under consideration and any other outstanding bonds of said district, including bonds authorized but not sold, exceeds sixty per centum of the aggregate market value of the lands within said district and of the water, water rights, canal, reservoirs, reservoir sites, and irrigation works owned, or to be acquired or constructed with the proceeds of any of said bonds, by said district, as determined in accordance with paragraphs (d) and (e) in this section.

(g) The numbers, date or dates of issue and denominations of the bonds, if any, which the commission shall find are available for the purposes provided for in section seven of this act, and, if the investigation has covered contemplated bonds, the total amount of bonds which the district can issue without exceeding the limitation expressed in paragraph (f) of this section.

#### **Certification by state controller.**

SEC. 3. The written report of the investigation herein provided for shall be filed in the office of the state controller, and a copy of said report shall by the commission be forwarded to the secretary of the district for which the investigation shall have been made, and if said commission shall have found, as set out in said report, that the irrigation system of the district and the specific project for which the bonds under consideration are desired or have been used, whether such project be constructed, projected or partially completed, are feasible and that the aggregate amount of the bonds under consideration and any other outstanding bonds of said district, including bonds authorized but not sold, does not exceed sixty per centum of the aggregate market value of the lands within said district and of the water, water rights, canals, reservoir, reservoir sites, and irrigation works owned or to be acquired or constructed with the proceeds of any of said bonds by said district, the bonds of such irrigation district, as described and enumerated in said report filed with the state controller, shall be certified by the state controller, as hereinafter provided for. If the commission shall be notified by the board of directors of any district whose irrigation system has been found in such report to be feasible that the district has issued bonds and the commission shall find that said bonds are for any project or projects approved in such report and that the amount of said bonds does not exceed the limitation stated in such report, the commission shall prepare and file with the state controller a supplementary report giving the numbers, date or dates of issue and denominations of said bonds, which shall then be entitled to certification by the state controller as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but, after any of the bonds of an irrigation district have been enumerated and described as entitled to certification by the state controller as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the state controller to provide for filing and preserving the reports mentioned in this section and, also, to make, keep and preserve a record of the bonds certified by him in accordance with the provisions of section four of this act, including the date of certifica-

tion, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity.

**Provisions of section two directory.**

SEC. 3a. The provisions of section two of this act as to the points upon which said commission shall report are directory merely and the board may authorize such certification when in their opinion, subject to the provisions otherwise contained in this act, their findings justify such action. (Stats. 1917, p. 583.)

**No expenditures without consent of commission.**

SEC. 3b. Whenever the bonds of any irrigation district have been certified, as provided in this act, no expenditure of any kind shall be made from the construction fund of such district without the consent of the commission provided for in this act and no obligation shall be incurred chargeable against such fund without previous authorization of the commission nor shall any expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise. (Stats. 1917, p. 583.)

**Certification of bonds as needed.**

SEC. 3c. Whenever the survey, examinations, drawings and plans of an irrigation district, and the estimate of cost based thereon, shall provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with section thirty of the California irrigation district act, and in accordance with a plan or schedule adopted by resolution of the board of directors of the district, it shall not be necessary for the commission to certify at one time all of the bonds that have been voted for the said completed project; but such bonds may be certified from time to time as needed by the district. If the commission shall certify all of the bonds necessary for the said completed project, even if said project is to be constructed progressively over a period of years in accordance with the aforesaid resolution of the board of directors, the bonds so voted and certified shall only be sold after prior written approval of the commission. (Stats. 1919, p. 1207.)

**Form of controller's certificate.**

SEC. 4. Whenever any bond of an irrigation district organized and existing as aforesaid, including any bond authorized in any such district but not sold, which shall be eligible to certification by the state controller under section three of this act, shall be presented to the state controller, he shall cause to be attached thereto a certificate in substantially the following form:

Sacramento, Cal., \_\_\_\_\_ (insert date).

I, \_\_\_\_\_, controller of the State of California, do hereby certify that the within bond, No. \_\_\_\_\_ of issue No. \_\_\_\_\_ of the \_\_\_\_\_ irrigation district, issued \_\_\_\_\_ (insert date), is, in accordance with an act of the legislature of California approved \_\_\_\_\_, a legal investment for all trust

funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the state school funds and any funds which may be invested in county, municipal or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city, city and county, or school district may be so deposited, it being entitled to such privileges by virtue of an examination by the state engineer, the attorney general and the superintendent of banks of the State of California in pursuance of said act. The within bond may also, according to the constitution of the State of California, be used as security for the deposit of public money in banks in said state.

-----  
Controller of State of California.

In case of a change in the constitution or any of the laws of this state relating to the bonds of irrigation districts, the state controller shall, if necessary, modify the above certificate so that it shall conform to the facts.

A facsimile of the controller's signature, printed or otherwise, impressed upon said certificate shall be a sufficient signing thereof: *provided*, that the imprint of the controller's seal thereon shall appear upon both the certificate and the bond over and through the printed signature. (Stats. 1915, p. 692.)

#### **Irrigation district bond commission created.**

SEC. 5. The attorney general, the state engineer and the superintendent of banks are hereby constituted the commission herein provided for, and said commission shall elect one of its members chairman and may employ such clerks and assistants as may be necessary for the performance of the duties herein imposed, and may fix the compensation to be paid to such clerks and assistants.

#### **Expenses.**

SEC. 6. All necessary expenses incurred in making the investigation and report in this act provided for shall be paid as the commission may require by the irrigation district whose property has been investigated and reported on by the said commission; *provided*, that the benefit of any services that may have been performed and any data that may have been obtained by any member of said commission or any other public official in pursuance of the requirements of any law other than this act, shall be available for the use of the commission herein provided for without charge to the district whose affairs are under investigation.

#### **Bonds certified legal investments for trust funds, etc.**

SEC. 7. All bonds certified in accordance with the terms of this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or municipalities



in the State of California, such money or funds may be invested in the said bonds of irrigation districts, and whenever bonds of cities, cities and counties, counties, school districts or municipalities may by any law now or hereafter enacted be used as security for the performance of any act, bonds of irrigation districts under the limitations in this act provided may be so used.<sup>1</sup> This act is intended to be and shall be considered the latest enactment upon the matters herein contained, and any and all acts in conflict with the provisions hereof are hereby repealed.

### REGISTRATION OF BONDS.

*An act to provide for the registration of bonds issued by the State of California, or any county, city and county, municipal corporation, or other public corporation.*

(Approved April 14, 1913, Stats. 1913, p. 23.)

### ASSESSMENT OF PUBLIC LANDS SUBJECT TO ENTRY.

*An act to promote the reclamation of arid land and to provide that certain land belonging to the State of California, within the boundaries of an irrigation district shall be subject to the assessments levied in said district.*

(Approved May 25, 1917, Stats. 1917, p. 936.)

### State lands in district to be assessed.

SECTION 1. Whenever there shall be included in any irrigation district organized and existing under the laws of this state, public lands belonging to the state subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of law relating to the organization, government and regulation of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; *provided, however*, that nothing herein contained shall be construed as creating any obligation against the State of California to pay any of said charges, assessment or debt.

### Notice served on surveyor general.

SEC. 2. All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the surveyor general of the State of California by mailing to his office a copy thereof enclosed in a sealed envelope with postage prepaid.

<sup>1</sup>For acts authorizing investments in irrigation district bonds, see the following:

*State school funds.* Pol. C., Sec. 676 (as amended Stats. 1913, p. 107).

*Savings banks.* Bank Act, Sec. 61 (as amended Stats. 1919, p. 631).

*Commercial banks.* Bank Act, Secs. 36, 46 (as amended Stats. 1915, pp. 1110, 1111).

*Trust companies.* Bank Act, Sec. 105 (as amended Stats. 1913, p. 183).

*Insurance companies.* C. C., Sec. 421 (as amended Stats. 1917, p. 976).

*Mortgage insurance companies.* C. C., Sec. 453ee (as amended Stats. 1915, p. 1541).

For acts authorizing irrigation district bonds as security for deposits or faithful performance, see the following:

*State moneys.* Stats. 1913, p. 108.

*County and municipal moneys.* Stats. 1913, p. 107.

*Trust companies.* Bank Act, Sec. 96 (as amended Stats. 1915, p. 1129).

**Assessment a lien.**

SEC. 3. No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

**TERMS OF CONTRACTS FOR FURNISHING WATER FOR  
IRRIGATION.**

*An act declaring upon what terms contracts between persons, companies, associations, or corporations furnishing water for irrigation to the consumers of such water shall be valid, and to provide that such contracts shall be deemed based upon sufficient consideration.*

(Approved March 16, 1901, Stats. 1901, p. 331.)

SECTION 1. It is and shall be lawful for any person, company, association, or corporation, furnishing for sale, rental, or distribution any appropriated waters for purpose of irrigation, to enter into contracts with individual consumers of such water or with bodies of such consumers, relating to the sale, rental or distribution of such water, or any thereof, which contracts subject to the restrictions hereinafter declared, shall be valid to all intents and purposes, any law or rule to the contrary notwithstanding.

SEC. 2. No such contract shall provide for the sale, rental, or distribution of any such water at any rate exceeding the established rates fixed and regulated therefor by the board of supervisors of the proper counties, or fixed and established by such person, company, association, or corporation, as provided by law.

SEC. 3. Nothing in this act contained shall be construed to authorize or make valid any contract not made for a valuable consideration; but an agreement on the part of such person, company, association, or corporation to sell, rent, or distribute any water to a consumer, without payment in advance therefor, or upon any other terms to which such consumer is not otherwise lawfully entitled, shall be deemed and taken to be a valuable and sufficient consideration for such contract.

SEC. 4. Nothing in this act contained shall affect any contract made prior to the time that the board of supervisors fix and establish the rates and regulations for and under which water shall be sold and supplied.

SEC. 5. This act shall take effect and be in force from and after its passage.

**CONTRACTS WITH U. S. RECLAMATION SERVICE.**

*An act authorizing and empowering irrigation and reclamation districts to enter into contracts with the United States reclamation service for the reclamation of lands within such districts under the provisions of the so-called "twenty year extension act."*

(Approved May 21, 1917. Stats. 1917, p. 731.)

**DRAINAGE BY IRRIGATION DISTRICTS.**

*An act to provide for drainage by irrigation districts.*

(Approved March 18, 1907, Stats. 1907, p. 569.)

**AGRICULTURAL EXPERT.**

*An act to provide for the employment of an expert in agriculture and matters relating thereto by the governing boards of irrigation, reclamation and drainage districts.*

(Approved April 23, 1913, Stats. 1913, p. 75.)

**DISSOLUTION OF DISTRICT.**

*An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved.*

(Approved May 19, 1919, Stats. 1919, p. 75.)

**FLOOD PROTECTION IN DISTRICTS WITH AREA OF MORE THAN 500,000 ACRES.**

*An act to provide for the government of irrigation districts having an area of more than 500,000 acres and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts.*

(Approved January 23, 1915, Stats. 1915, p. 1.)

**COUNTY ASSESSMENT BOOK FURNISHED DISTRICT.**

Political Code, Sec. 3653 (as amended by Stats. 1913, p. 814), provides that the county assessor must furnish on request to a district a certified copy of his assessment book, so far as such assessment book pertains to property within the limits of the district.

**IRRIGATION DECLARED A PUBLIC USE.**

*An act regarding irrigation and declaring the same to be a public use.*

(Approved May 1, 1911. Stats. 1911, p. 1407.)

**OPENING PRIVATE WAY FOR CANAL.**

Political Code, Sec. 2692 (as amended by Stats. 1919, p. 117), provides that private ways for irrigation canals may be opened in the same manner as public roads.

**PENALTY FOR DAMAGING CANAL, ETC.**

Penal Code, Sec. 607, makes it a misdemeanor to maliciously injure any dam, canal, flume, etc., used to store or conduct water for agricultural purposes.



### PENALTY FOR TAKING WATER FROM OR OBSTRUCTING CANAL, ETC.

Penal Code, Sec. 592, makes it a misdemeanor to take water without authority from a canal, etc., to disturb any gate or other apparatus, or obstruct the free flow of water.

### IMPERIAL IRRIGATION DISTRICT.

*An act to legalize bonds issued and to be issued and sold by Imperial irrigation district.*

(Approved March 26, 1915, Stats. 1919, p. 18.)

*An act authorizing the Imperial irrigation district to acquire the irrigation system and works of the California Development Company and its subsidiary company and successors in California and Mexico by condemnation or purchase, and, in case of purchase, to exchange bonds of said district for such irrigation system and works or for property interests therein.*

(Approved May 5, 1915. Stats. 1915, p. 343.)

### LEGISLATIVE VALIDATION OF IRRIGATION DISTRICTS.

Irrigation districts began in 1911 the practice of obtaining special legislative acts of validation. Following are statutory references to such acts:

**Anderson-Cottonwood.** Stats. 1915, p. 74.

**Baxter Creek.** Stats. 1917, p. 227.

**Carmichael.** Stats. 1917, p. 12.

**Fair Oaks.** Stats. 1919, p. 37.

**Happy Valley.** Stats. 1917, p. 906.

**Imperial.** Stats. 1911 (extra session), p. 119.

**Jacinto.** Stats. 1919, p. 32.

**La Mesa, Lemon Grove and Spring Valley.** Stats. 1915, p. 323.

**Lindsay-Strathmore.** Stats. 1917, p. 15.

**Modesto.** Stats. 1911, p. 262.

**Oakdale.** Stats. 1915, p. 262.

**Paradise.** Stats. 1917, p. 13.

**Princeton-Codora-Glenn.** Stats. 1917, p. 228.

**Red Rock Creek.** Stats. 1919, p. 124.

**San Ysidro.** Stats. 1913, p. 25.

**South San Joaquin.** Stats. 1911, p. 262.

**Stratford.** Stats. 1917, p. 14.

**Terra Bella.** Stats. 1917, p. 14.

**Tranquillity.** Stats. 1919, p. 124.

**Turlock.** Stats. 1911, p. 261.

**Waterford.** Stats. 1915, p. 1249.

**West Side.** Stats. 1917, p. 15.

**CONSERVANCY DISTRICTS.**

*An act to provide for the organization and government of conservancy districts for certain specified purposes; to provide for the issuance, sale and hypothecation of district bonds to pay the costs and expenses incurred in relation thereto, and to provide for the retirement of such bonds; to provide for the levying and collection of taxes to pay the annual installment of principal and interest on said bonds; to provide for levying and collecting special assessments for special benefits and to issue improvement warrants to represent such special assessments for special benefits; to provide for the effect and enforcement of such improvement warrants and the application of moneys derived from the enforcement thereof; and to provide a method of dissolving such districts.*

(Approved May 16, 1919, Stats. 1919, p. 559.)

This act gives county boards of supervisors power to establish conservancy districts for the purpose, among others, of conserving flood waters and disposing of waters which have been conserved for purposes of irrigation.

**COUNTY POWER PUMPING DISTRICTS.**

*An act to provide for the formation, management and dissolution of county power pumping districts; for supplying the land owners and inhabitants thereof with water and with the power necessary to pump the same; for the levy and collection of taxes on property in such districts; and for the issuance of county power pumping district bonds and for the payment thereof.*

(Approved June 12, 1915, Stats. 1915, p. 1483.)







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